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Additional Information on the Budgetary Measures

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Additional Information on the Budgetary Measures

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1. MEASURES CONCERNING INDIVIDUALS

1.1 Reform of government assistance for families

Over the years, the Québec government has implemented various measures recognizing the importance of children in Québec society, several of which are designed to provide financial support to low- and middle-income families.

These measures aim, in particular, to fulfil the recognized essential needs of children and encourage parents to enter or stay in the labour market.

Currently, the non-refundable tax credits respecting dependent children and family benefits – which include the family allowance[1] and the allowance for handicapped children – combine to amply fulfil the recognized essential needs of children. Furthermore, households with at least one child can benefit from the tax reduction in respect of families.

The Parental Wage Assistance program, hereinafter referred to as the "PWA program", encourages low- and middle-income families with at least one child to enter or stay in the labour market.

In order to increase government assistance to families and ensure greater coherence between measures targeting income support, work incentives and the fulfilment of children's recognized essential needs, family benefits, the non-refundable tax credits respecting dependent children, the tax reduction in respect of families and the PWA program will be replaced with a child assistance payment and a work premium as of January 1, 2005.

The child assistance payment, which will be paid in quarterly instalments, will be universal and provide additional support to low- and middle-income families.

The work premium, which targets low- and middle-income workers, is described in more detail in subsection 1.2.

1.1.1 Child assistance payment

A child assistance payment will be made to Québec families as of January 2005. This payment, which will take the form of a refundable tax credit, will be non-taxable.

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[1] This allowance is reduced on the basis of family income.

Persons wishing to claim this payment must apply to the Régie des rentes du Québec.[2] For this purpose, they will be deemed to have made such application if they are currently receiving a family allowance or have filed an application with the Canada Revenue Agency in order to obtain the Canada Child Tax Benefit.

However, in order to receive the child assistance payment, a person and, where applicable, the person who was his or her qualified spouse at the end of the reference year must have filed an income tax return[3] for that year.

❑ Calculation of the child assistance payment

As of 2005, an individual may claim, in respect of a given month in the year, a child assistance payment equal to the amount determined using the following formula:

$1/12\,A + H$

For the purposes of the application of this formula:

- "A" represents the highest of the amounts obtained using the formulas below:

  $(B + C) - 4\%\,(D - E)$ and $F + G$

  where:

  - "B" represents:
    - ○ if the individual is, at the beginning of the month, an eligible individual in respect of a single eligible dependent child, the amount of $2 000;
    - ○ if the individual is, at the beginning of the month, an eligible individual in respect of several eligible dependent children, the total of the following amounts:
      - $2 000 for the first dependent child;

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[2] The Régie des rentes du Québec will be mandated by the Minister of Revenue to administer the new system governing the child assistance payment. For this purpose, the Minister of Revenue will be authorized, under the tax legislation, to disclose certain tax information to the Régie des rentes du Québec to enable it to adequately carry out its mandate.

[3] In this respect, where an individual resides in Québec on December 31 of the reference year and was a resident of Canada throughout the reference year, the required tax return shall be the return filed with the Minister of Revenue for the reference year, in accordance with the *Income Tax Act*. Otherwise, the required tax return shall be a statement of income for the reference year filed with the Régie des rentes du Québec using the prescribed form.

        - $1 000 each for the second and third dependent children;
        - $1 500 for each subsequent child;
    - "C" represents the amount of $700, where the individual does not have a qualified spouse at the beginning of the month;
    - "D" represents the individual's family income for the reference year;
    - "E" represents the amount of $42 800 if the individual has a qualified spouse at the beginning of the month, and an amount of $31 600 if this is not the case;
    - "F" represents:
        - ○ if the individual is, at the beginning of the month, an eligible individual in respect of a single eligible dependent child, the amount of $553;
        - ○ if the individual is, at the beginning of the month, an eligible individual in respect of several eligible dependent children, the total of the following amounts:
            - $553 for the first dependent child;
            - $510 for each subsequent child;
    - "G" represents the amount of $276, where the individual does not have a qualified spouse at the beginning of the month;
- "H" represents the result of $119.22 multiplied by the number of eligible dependent children giving entitlement to the allowance for handicapped children in respect of which the individual is, at the beginning of the month, an eligible individual.

The table below shows the main parameters used to determine the amount of the child assistance payment Québec families can claim for 2005.

TABLE 1.1

MAIN PARAMETERS OF THE CHILD ASSISTANCE PAYMENT
(2005 – in dollars)

Parameters	Amount ($)
Maximum amounts	
– 1st child	2 000
– 2nd and 3rd children	1 000
– 4th and subsequent children	1 500
– single-parent family	700
Minimum amounts[1]	
– 1st child	553
– 2nd and subsequent children	510
– single-parent family	276
Reduction threshold	
– couple	42 800
– single-parent family	31 600
Monthly allowance for handicapped children[2]	119.22

(1) These amounts will be indexed on January 1, 2005.

(2) This amount will be indexed on January 1, 2005.

❑ Annual adjustment of the parameters of the child assistance payment

The monthly allowance for handicapped children[4] and the minimum basic amounts[5] used to calculate the child assistance payment – which correspond to the maximum value of the non-refundable tax credits respecting dependent children granted under the personal income tax system for the 2004 taxation year – will be automatically indexed[6] as of January 1, 2005.

As of January 1, 2006, the maximum basic amounts[7] will also be automatically indexed.

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[4] Corresponds to "H" in the formula used to calculate the child assistance payment for a given month.

[5] Corresponds to "F" and "G" in the formula used to calculate the child assistance payment for a given month.

[6] The indexing formula that will be used is described in subsection 1.5.

[7] Corresponds to "B" and "C" in the formula used to calculate the child assistance payment for a given month.

In addition, the reduction thresholds[8] of the child assistance payment will be adjusted annually, as of January 1, 2006, in order to bring them into line with the eligibility limits of the work premium. The thresholds that apply to a given year, subsequent to 2005, will be determined using the following formula:

A (B – C) + B

For the purposes of the application of this formula:

- "A" represents 2.5 where the formula is applied to determine the reduction threshold of an individual who has a qualified spouse, and 3 where it is applied to determine the reduction threshold of an individual who does not have a qualified spouse;
- "B" represents:
  - the reduction threshold, for the year, used to calculate the work premium of a couple with children, where the formula is applied to determine the reduction threshold of an individual who has a qualified spouse;
  - the reduction threshold, for the year, used to calculate the work premium of a single-parent family, where the formula is applied to determine the reduction threshold of an individual who does not have a qualified spouse;
- "C" represents the amount of $3 600 where the formula is applied to determine the reduction threshold of an individual who has a qualified spouse, and the amount of $2 400 where it is applied to determine the reduction threshold of an individual who does not have a qualified spouse.

❑ Eligible individual

An eligible individual in respect of an eligible dependent child, at a given time, refers to an individual who, at that time, satisfies the following conditions:

- he or she resides with the eligible dependent child;
- he or she is the person (the father or mother[9] of the eligible dependent child) who is mainly responsible or is deemed to be mainly responsible for that child's care and education;

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[8] Corresponds to "E" in the formula used to calculate the child assistance payment for a given month.

[9] The father or mother of an individual refers to a person with whom the individual is connected by filiation, a person who is the spouse of the individual's father or mother, a person who is the father or mother of the individual's spouse, or a person on whom the individual depends to provide for his or her support and who has the custody and control of the individual, in law or in fact, or had such custody and control immediately before the individual attained the age of 19, including a person who has already satisfied these conditions.

- he or she resides in Québec or, if he or she is the qualified spouse of a person who is deemed to reside in Québec throughout the taxation year which includes the given time (other than a person who receives a remission of the tax payable for the year), he or she resided in Québec during a previous taxation year;
- he or she is not receiving a tax remission or exemption for the taxation year which includes the given time;
- he or she, or his or her spouse, has one of the following statuses:
  - Canadian citizen;
  - permanent resident within the meaning of the *Immigration and Refugee Protection Act*;
  - temporary resident or holder of a temporary resident permit contemplated by the *Immigration and Refugee Protection Act* having resided in Canada during the 18-month period preceding the given time;
  - protected person within the meaning of the *Immigration and Refugee Protection Act*.

However, an individual may not be considered an eligible individual in respect of an eligible dependent child at the beginning of a given month unless he or she has filed an application with the Régie des rentes du Québec, on a prescribed form containing the prescribed information, no later than eleven months after the end of the given month. The Régie des rentes du Québec may extend this deadline at any time.

Furthermore, an individual who ceases to be, during a given month, an eligible individual in respect of an eligible dependent child, for a reason other than that this child has reached the age of 18, will be required to notify the Régie des rentes du Québec before the end of the first month following the given month.

❑ Eligible dependent child

An eligible dependent child of an individual, at a given time, refers to a person who, at that time, is under 18 and satisfies the following conditions:

- his or her spouse has not, in the calculation of his or her income tax otherwise payable for the reference year in relation to the month including the given time, deducted an amount with regard to the deduction for the transfer of non-refundable tax credits from one spouse to the other;

— he or she is not institutionalized or placed under authority of law, unless the terms and conditions concerning the contribution required under the *Regulation respecting the application of the Act respecting health services and social services* are satisfied.

In addition, an eligible dependent child may give entitlement to the allowance for handicapped children if that child has an impairment or a development disorder that considerably restricts his or her everyday activities and that is expected to last at least one year, in accordance with the rules currently established by the *Regulation respecting the allowance for handicapped children*, which is enacted under the *Act respecting family benefits*.

❑ Qualified spouse

For the purposes of the child assistance payment, the expression "qualified spouse" refers to a person who, at a given time, is the spouse of an individual from whom he or she is not living apart at that time. In this respect, a person will be considered to be living apart from an individual at a given time only if he or she is living apart from the individual at that time because of the breakdown of their relationship and if the separation lasts for a period of at least 90 days that includes that time.

❑ Person who is mainly responsible for the care and education of a child

A person must be mainly responsible for the care and education of a child to be entitled to claim a child assistance payment in respect of that child.

• Shared custody

Where, during a given calendar year, responsibility for the care and education of an eligible dependent child is shared equally between more than one person (the father or mother of the eligible dependent child) who do not live together, these persons may agree to determine which of them will be deemed to be mainly responsible during that year.

If no agreement can be reached, the Minister of Revenue will determine the months, included in the calendar year, at the beginning of which each of these persons will be deemed to be mainly responsible for the care and education of the eligible dependent child.

• Presumption in favour of the mother

Where the eligible dependent child resides with his or her mother, the person who is mainly responsible for the care and education of this dependent child will be presumed to be the mother.

However, this presumption will not apply where:

— the mother declares to the Régie des rentes du Québec that she lives with the father of the child and that he is mainly responsible for the care and education of each of the eligible dependent children who lives with them;

— the mother is herself an eligible dependent child of an eligible individual and each of them files an application in respect of the same eligible dependent child;

— the eligible dependent child has more than one mother with whom he or she lives and each of them files an application in respect of this child;

— more than one person files an application in respect of the same eligible dependent child, who lives with each of these persons in different places.

• Criteria relating to care and education

The following criteria shall be used to determine whether a person is responsible for the care and education of an eligible dependent child:

— monitoring the daily activities of the child and providing for his or her daily needs;

— ensuring that the place where the child resides is safe;

— obtaining medical care for the child at regular intervals and when necessary, and transporting him or her to the places where this care is given;

— organizing, for the child, educational, recreational, sports or other similar activities, the child's participation in such activities and transportation for this purpose;

— providing for the child's needs when he or she is ill or requires another person's assistance;

— seeing to the child's personal hygiene on a regular basis;

— in general, being present for the child and guiding him or her;

— the existence of an order handed down in the child's respect by a court that has authority in the jurisdiction where he or she resides.

❑ Family income

The child assistance payment is, in part, reduced on the basis of family income. In this respect, the family income of an individual for a given reference year will be equal to the aggregate income, for that year, of that individual and of his or her qualified spouse at the end of the year.

• Separation of spouses

The child assistance payment may be revised in the course of the year where two spouses separate. More specifically, the eligible individual in respect of an eligible dependent child who has begun, before the end of a given month, living apart from his or her qualified spouse because of the breakdown of their relationship for a period of at least 90 days that includes a day in the given month, may choose, before the end of the eleventh month following the given month, to have his or her family income for the reference year, in respect of any month subsequent to the given month, deemed equal to his or her income for the year.

• Death of a spouse

An individual may request that the child assistance payment to which he or she is entitled be revised following the death of his or her spouse. More specifically, where the qualified spouse of an eligible individual in respect of an eligible dependent child dies before the end of a given month, the individual may choose, before the end of the eleventh month following the given month, to have his or her family income for the reference year, in respect of any month subsequent to the given month, deemed equal to his or her income for the year.

• New qualified spouse

The person who, at a given time before the end of a given month, becomes the qualified spouse of an eligible individual may choose, along with the eligible individual and before the end of the eleventh month following the given month, to be deemed to have been, in respect of any month subsequent to the given month, the qualified spouse of the eligible individual throughout the period which began immediately before the end of the reference year that includes the given month and which ended at the given time.

Given that the reduction threshold of the child assistance payment applicable to a couple is higher than the reduction threshold applicable to a single-parent family, it may be more advantageous to have the child assistance payment revised to take the new spouse into account, especially if he or she has a low income.

- **Individuals who go bankrupt during a year**

Where an individual goes bankrupt during a given calendar year, the rule under which the bankrupt's taxation year is deemed to begin on the date of the bankruptcy and the current taxation year is deemed to end the day before that date will not apply for the purpose of determining that individual's income for the year.

- **Non-resident and resident for part of the year**

Where an individual has not resided in Canada throughout a given reference year, the individual's income for that year will be deemed to be equal to the income that would have been determined in his or her regard had he or she resided in Québec and in Canada throughout the year or, if he or she dies during the year, throughout the period of the year preceding his or her death.

☐ Reference year

The reference year refers to, for a given month, the year that ended on December 31 of the second preceding year, where that month was one of the first six months of the year, or the year that ended on December 31 of the preceding year, where that month was one of the last six months of the year.

☐ Quarterly instalments of the child assistance payment

The child assistance payment will be made in quarterly instalments. Each instalment, which will be paid no later than the 15th day of January, April, July and October, will cover the months included in the quarter beginning with each of these months.

1.1.2 Adjustment of the tax credits respecting dependants

The tax system currently provides for non-refundable tax credits for taxpayers with one or more dependants, calculated on the basis of several amounts granted to cover the recognized essential needs of each of these persons, from which the income of the dependant must be subtracted. The amount of the tax credits respecting dependants is obtained by applying a rate of 20% to the total of the amounts thus calculated for each dependant.

To take into account the fact that, as of January 1, 2005, the child assistance payment will cover the recognized essential needs of dependants under 18, the tax credits respecting dependants will be adjusted.[10]

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[10] The amounts marked with an asterisk appearing in this subsection will be indexed annually as of January 1, 2005, in accordance with the indexing formula described in subsection 1.5.

❑ Amount respecting children engaged in vocational training or postsecondary studies

For the purposes of calculating the tax credits respecting dependants, the tax system will grant for a given taxation year in respect of each person who is the child[11] of a taxpayer (other than a person in respect of whom the taxpayer deducts, for the year, an amount for other dependants with an infirmity) and who, during that year, is a dependant of the taxpayer, an amount of $1 755* for each completed term, without exceeding two, which began in the year and during which this person will be taking courses on a full-time basis:

— in an educational institution located in Québec and designated by the Minister of Education for the application, under the *Act respecting financial assistance for educational expenses*, of the loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level, where he or she was enrolled in a course of study recognized by the Minister for that purpose and under which the person enrolled therein must devote at least nine hours a week to courses or work required by this program;

— or in an educational institution located outside Québec and so designated by the Minister of Education, where he or she was enrolled in a course of study at the college or university level or at an equivalent level and under which the person enrolled therein must devote at least nine hours a week to courses or work required by this program.

The amount of $1 755* per completed term is intended to provide tax relief for parents whose children are enrolled in vocational training at the secondary level or postsecondary studies.

The total amounts thus granted in respect of a child for a given taxation year, to which may be added the amounts for an adult child who is a student, will be reduced by the amount of the child's income for the year. The total of the amounts thus reduced will be converted to a non-refundable tax credit at a rate of 20%.

❑ Amounts for an adult child who is a student

Various amounts will be granted to shield from taxation the income a taxpayer uses to satisfy the recognized essential needs of his or her adult children who are students.

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[11] The expression "child of a taxpayer" refers to a person who is connected to the taxpayer by filiation, a person who is the child of the taxpayer's spouse, a person who is wholly dependent on the taxpayer for support and of whom the taxpayer has, or immediately before such person attained the age of 19 did have, in fact or in law, the custody and control, or a person who is the spouse of the taxpayer's child.

- **Basic amounts**

Where, at the end of a given taxation year or on the date of his or her death, a taxpayer has no children for whom he or she, or his or her eligible spouse for the year, can claim a child assistance payment, this taxpayer may add, in the calculation of a tax credit respecting dependants claimed for a child giving entitlement to an amount respecting children engaged in vocational training or postsecondary studies, the amount of $2 765*, provided he or she designates this dependent child, using the prescribed form, as the first child, regardless of the order in which his or her children were actually born. Otherwise, the amount of $2 550* may be added.

For greater clarity, a taxpayer may not, for a given taxation year, designate more than one person as the first child. Furthermore, an individual who is the eligible spouse of the taxpayer for that year may not designate as the first child, for the year, a person other than the person who was designated by the taxpayer, unless this individual is not deducting, in the calculation of his or her income tax otherwise payable for the year, an amount respecting non-refundable tax credits transferred from one spouse to the other and if, during the year, he or she satisfied the following conditions:

— he or she was not married or, if he or she was, he or she did not live with his or her spouse or provide for his or her needs and was not a dependant thereof;

— he or she did not live in a conjugal relationship with anyone;

— he or she maintained a self-contained domestic establishment and lived there ordinarily.

In this respect, persons who are joined in marriage will be considered as not being married at any time if, at that time, they are living apart because of the breakdown of their relationship and have been separated for a period of at least 90 days that includes that time.

- **Amount for a single-parent family**

A taxpayer may add, in the calculation of a tax credit respecting dependants for a child he or she has designated, for the year, as the first child for the purposes of determining the basic amount for an adult child who is a student, a maximum of $1 380* if he or she is not deducting, in the calculation of his or her income tax otherwise payable for the year, an amount respecting non-refundable tax credits transferred from one spouse to the other and if, during the year, he or she satisfied the following conditions:

— he or she was not married or, if he or she was, he or she did not live with his or her spouse or provide for his or her needs and was not a dependant thereof;

- he or she did not live in a conjugal relationship with anyone;
- he or she maintained a self-contained domestic establishment and lived there ordinarily.

If the taxpayer has not satisfied these three conditions throughout the year, the maximum amount for a single-parent family will be reduced by an amount equal to the proportion of the maximum amount represented by, in relation to 12, the number of full months in the year during which he or she has not satisfied these conditions.

For the purposes of applying the eligibility conditions, persons who are joined in marriage will be considered as not being married at any time if, at that time, they are living apart because of the breakdown of their relationship and have been separated for a period of at least 90 days that includes that time.

The amount granted recognizes the greater essential needs of the first dependent child in a single-parent family in relation to the needs of the first child of a couple, and shields from taxation the income that the head of the single-parent family devotes to covering these additional expenses.

❑ Amount for other dependants

For the purposes of calculating the tax credits respecting dependants, the tax system will grant, for a given taxation year, in respect of each person who is related to a taxpayer by blood, marriage or adoption (other than his or her spouse or a person for whom the taxpayer includes, for that year, an amount respecting children engaged in vocational training or postsecondary studies in the calculation of the tax credits respecting dependants), the amount of $2 550*, provided that, during the year, this person is at least 18 years of age, is a dependant of the taxpayer and ordinarily lives with the latter.

The amount of $2 550* granted for recognized essential needs, less the income of the dependant, will be converted to a non-refundable tax credit at a rate of 20% of the amount thus reduced.

❑ Amount for other dependants with an infirmity

For a given taxation year, a taxpayer who is entitled to include, in the calculation of a tax credit respecting dependants, the amount of $2 550* as an amount for other dependants for a person who is, for that year, a dependant of the taxpayer because of a physical or mental infirmity, the amount of $2 550* will be replaced by the amount of $6 275*.

The amount of $6 275* granted for recognized essential needs, less the income of the dependant, will be converted to a non-refundable tax credit at a rate of 20% of the amount thus reduced.

❑ Application details

• Income of a dependant

The income of a dependant which must be applied to reduce the amounts taken into account in his or her respect for the purposes of calculating a tax credit respecting dependants for a given taxation year will be equal to the income of that person for the year, without taking into account the deductions for residents of designated remote areas.

However, the income of a dependant who has not resided in Canada throughout the year shall be calculated without taking into account the deductions for residents of designated remote areas and as if the dependant had resided in Québec and in Canada throughout the year, or, where he or she dies during the year, throughout the period of the year preceding his or her death.

• Sharing of the tax credits respecting dependants

Where, for a given taxation year, more than one taxpayer is entitled to deduct, in the calculation of his or her income tax otherwise payable for the year, an amount as a tax credit respecting dependants for a given person, the following rules shall apply:

- the amount that a given taxpayer is entitled to deduct as a tax credit respecting dependants for the person will be reduced to the proportion of the amount determined in respect of this taxpayer by all of the taxpayers who are similarly entitled to deduct an amount as a tax credit for that person;
- the total of the proportions determined for all of these taxpayers in respect of that person cannot exceed 1 for the year;
- where the total of the proportions determined exceeds 1 for the year, the Minister of Revenue may establish the amount that each taxpayer can deduct for the year in respect of that person.

• Dependants who turn 18 in the course of a year

For the purposes of calculating, for a given taxation year, a tax credit respecting a dependant who turns 18 in the course of the year, each of the amounts that could be granted in respect of that dependant as the basic amount for an adult child who is a student, the amount for a single-parent family, the amount for other dependants or the amount for other dependants with an infirmity will be reduced, respectively, by an amount equal to the proportion of this amount represented by, in relation to 12, the number of months in the year during which the dependant was under 18.

• Taxpayers who reside outside Canada throughout a year

Taxpayers who do not reside in Canada at any time during a taxation year and who, during that year or a previous taxation year are, among other things, employed in Québec or carry on a business there, will be able to claim the tax credits respecting dependants, provided all or almost all of their income for the year is included in the calculation of their taxable income earned in Canada for the year.

Taxpayers who fulfil this condition will be able to deduct, in the calculation of their income tax otherwise payable for the year, the portion of the amount that is deductible in respect of these tax credits otherwise determined, as represented by the ratio—which cannot exceed 1—between their income earned in Québec and their income earned in Canada.

• Taxpayers who reside in Canada for part of a year

Taxpayers who reside in Canada for only part of a taxation year shall be subject to the following rules for determining the amount they may deduct, in the calculation of their income tax otherwise payable for the year, with regard to the tax credits respecting dependants:

— for any period throughout which a taxpayer resides in Canada during a year, the deductible amount shall be calculated, on the one hand, by replacing each amount granted for the purposes of calculating these tax credits[12] by an amount equal to the proportion of the amount granted, represented by the ratio between the number of days in the period and the number of days in the year and, on the other hand, as if this period represented an entire taxation year. For the application of this rule with regard to amounts granted for the purposes of calculating the tax credits respecting dependants, other than an amount respecting children engaged in vocational training or postsecondary studies, the number of days in the period throughout which the taxpayer resides in Canada during a year shall be deemed to be zero if, during this period, the dependant did not turn 18;

— for a period in the year during which the taxpayer resides outside Canada, the deductible amount shall be calculated as if the period represented an entire taxation year.

However, the amount that the individual may deduct for the year cannot exceed the amount that would be deductible in this regard were the taxpayer to reside in Canada throughout the year.

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[12] For greater clarity, where the given taxation year is that during which the dependant turns 18, the amount granted for the purposes of calculating a tax credit respecting dependants shall be that which, where applicable, has been reduced.

- **Taxpayers who go bankrupt during a year**

Under the tax legislation, taxpayers who go bankrupt during a calendar year are deemed to have two taxation years during that calendar year: the first one extending from January 1 to the day before the bankruptcy, and the second from the day of the bankruptcy to December 31.

The amount that may be deducted with regard to a tax credit respecting dependants for each of these years shall be calculated by replacing each amount granted for the purposes of calculating this tax credit[13] by an amount equal to the proportion of the amount granted, represented by the ratio between the number of days in the taxation year and the number of days in the calendar year.

For the application of this rule to any amount granted for the purposes of calculating a tax credit respecting dependants, other than an amount respecting children engaged in vocational training or postsecondary studies, the number of days in a taxation year shall be deemed to be zero if, during that year, the dependant did not turn 18.

- **Eligible spouse**

For the purposes of application of the tax credits respecting dependants, a taxpayer's "eligible spouse" for a given taxation year means:

— the person who is the taxpayer's spouse at the end of the year and who, at that time, is not living apart from the taxpayer;

— the last person who is the taxpayer's spouse during the year, if the taxpayer does not have a spouse at the end of the year, where that person dies during the year and, at the time of death, is the taxpayer's spouse and is not living apart from the taxpayer;

— the taxpayer's spouse, if the taxpayer dies during the year and has a spouse at the time of death, unless that person is living apart from the taxpayer at that time or is the spouse of another individual at the end of the year or, where that person dies in the year, at the time of death; or

— the last person who is the taxpayer's spouse during the year, if the taxpayer dies during the year and does not have a spouse at the time of death, where that person dies during the year and, at the time of death, is the taxpayer's spouse and is not living apart from the taxpayer.

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[13] Ibid.

A person will be considered to be living apart from a taxpayer at any time in a taxation year only if the person is living apart from the taxpayer at that time because of the breakdown of their relationship and the separation lasts for a period of at least 90 days that includes that time.

Moreover, considering that, for the purposes of application of the tax legislation, a taxpayer may have two spouses at the same time, since "spouse" can mean a person who is in a *de facto* union while married to or in a civil union with another person, a taxpayer will be presumed to have only one eligible spouse for a given taxation year and to be the eligible spouse of only that person for that year. Where a person is the eligible spouse of more than one taxpayer for a taxation year, the Minister of Revenue may designate which of these taxpayers is deemed to have that person as his only eligible spouse for the year, and that person will be deemed to be the eligible spouse for the year of only the taxpayer thus designated by the Minister.

1.1.3 Consequential amendments

Consequential amendments will have to be made to the current tax legislation to account for the reform of government assistance for families, which will result in an adjustment to the tax credits respecting dependants and in the elimination of the tax reduction in respect of families, effective January 1, 2005.

☐ Tax credit for a person living alone

To recognize the additional needs, compared with those of a two-adult household, arising from the occupation of a dwelling or a residence by a person living alone or a single-parent family, the tax system provides for a non-refundable tax credit calculated on the basis of an amount of $1 115* for recognized essential needs.

Currently, to be entitled to the amount for a person living alone for a given taxation year, a person must ordinarily live, throughout the year or throughout the portion of the year preceding the time of death, in a self-contained domestic establishment which he maintains and in which no other person, except a child giving entitlement to the tax credit respecting dependent children, lives during the year.

The tax legislation will be amended to provide that, for the purpose of calculating the tax credit for a person living alone for a given taxation year, the amount of $1 115* for a person living alone is granted to individuals who ordinarily live, throughout the year or, if they die during the year, throughout the portion of the year preceding the time of death, in a self-contained domestic establishment which they maintain and in which no other person, except a person under 18 years of age or a person giving entitlement to a tax credit respecting an adult child who is a student, lives during the year.

❑ Refundable tax credit for child-care expenses

Child-care expenses paid to have an eligible child cared for in order to enable a taxpayer or another supporting person of a child (usually the taxpayer's spouse) to work, continue their studies or actively seek employment can be converted into a refundable tax credit at a rate that is established according to family income.

For this purpose, the definition of "eligible child" will be changed so that an eligible child of an individual for a taxation year means either a child of the individual or the individual's spouse or a dependent child of the individual or the individual's spouse if that child's income for that year does not exceed \$6 275* provided, in every case and at any given time during the year, the child is under 16 years of age or is the individual's or the individual's spouse's dependant because of a mental or physical infirmity.

❑ Refundable Québec sales tax credit

To maintain the progressivity of the tax system, a refundable tax credit for the Québec sales tax (QST) is granted to individuals who must allocate a significant proportion of their income to the consumption of essential goods and services.

In general, this tax credit, the value of which depends on the family situation and family income of eligible taxpayers, is granted to individuals who, at the end of a taxation year, are at least 19 years of age and are resident in Québec.

Changes will be made to the eligibility criteria so that the QST credit may be claimed by an individual who, at the end of December 31 of a given taxation year, is resident in Québec and is either at least 19 years of age, an emancipated minor within the meaning of the *Civil Code of Québec*, the spouse of another individual, or the parent of a child with whom he lives, except where the individual is:

— a person in regard to whom a child assistance payment was made for the year; or

— a person in regard to whom another individual deducts an amount for the year, in the calculation of his income tax otherwise payable, respecting the tax credit for an adult child who is a student.

❑ Tax credit for medical expenses and tax credits relating to medical care not available in the area of residence

The tax system provides for a non-refundable tax credit to offset medical expenses incurred by taxpayers for themselves, their spouse and their dependants, where these expenses exceed a certain level of income.

It also provides for non-refundable tax credits[14] in the case of taxpayers having to assume certain expenses for specialized medical care available only in large urban centres.

The tax legislation will be amended to provide that, for the purposes of application of these tax credits, an individual's dependant during a taxation year refers to a person who is supported by the individual during the year, if the person ordinarily lives with or is deemed to ordinarily live with the individual during the year and is the child, grandchild, brother, sister, nephew, niece, uncle, aunt, great-uncle, great-aunt, father, mother, grandfather, grandmother or any other direct ascendant of the individual or the individual's spouse.

A person who, during a given year, does not ordinarily live with the individual of whom he is a dependant because of a mental or physical infirmity will be considered to ordinarily live with the individual during that year, except if the person did not reside in Canada at any time during the year where the person is not the individual's child or grandchild.

❑ Tax credit for dependants with a mental or physical impairment

Taxpayers with a severe and prolonged mental or physical impairment that considerably restricts their ability to carry out everyday activities are entitled to a non-refundable tax credit of $440. The unused portion of this tax credit may be transferred to a person of whom the taxpayer is a dependant.

The tax legislation will be amended to provide that the unused portion of the tax credit for a mental or physical impairment can be transferred to an individual for a given taxation year if the person with the impairment resides in Canada at any given time during the year and is either a person with regard to whom the individual deducted, in calculating his income tax otherwise payable for the year, an amount under a tax credit respecting dependants[15], or could have deducted such an amount had it not been for the dependant's income, or a person with regard to whom the individual or the individual's eligible spouse received, for the year, a child assistance payment.

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[14] Tax credit for expenses relating to medical care not available in the area of residence and the tax credit for moving expenses relating to medical care.

[15] Tax credit for a child engaged in vocational training or postsecondary studies, tax credit for an adult child who is a student, tax credit for other dependants or tax credit for other dependants with an infirmity.

❏ Refundable tax credit for home maintenance for an older person

The refundable tax credit for home maintenance for an older person entitles, under certain conditions, persons aged 70 or over to tax assistance equal to 23% of the eligible expenditures they pay to obtain certain home-support services, up to a maximum of $2 760 per year.

To be eligible for this tax credit, home-support services must not, among other things, be provided by a dependant of the taxpayer claiming the tax credit.

For this purpose, the definition of "dependant" will be changed to refer to a child of the taxpayer or any other person who is related to the taxpayer by blood, marriage or adoption and ordinarily lives with the taxpayer.

❏ Refundable tax credit for individuals living in a northern village

Individuals living in the territory of a northern village erected as a municipality pursuant to the *Act respecting Northern villages and the Kativik Regional Government* are entitled to a refundable tax credit that recognizes their specific needs arising from the remoteness of the villages, the climate and the high cost of living. The basic amount of this tax credit depends on the number of months during which the individual lives in such a territory and his family situation.

In general, this tax credit is granted to individuals who, at the end of a taxation year, are aged 19 or over and are resident in Québec.

Changes will be made to the eligibility criteria so that the refundable tax credit for individuals living in a northern village may be claimed by an individual who, at the end of December 31 of a given taxation year, is resident in Québec and is either at least 19 years of age, an emancipated minor within the meaning of the *Civil Code of Québec*, the spouse of another individual, or the parent of a child with whom he lives, except where the individual is:

— a person in regard to whom a child assistance payment was made for the year; or

— a person in regard to whom another individual deducts an amount for the year, in the calculation of his income tax otherwise payable, respecting the tax credit for an adult child who is a student.

Furthermore, the tax legislation will be amended to provide that the monthly amount of $15 per dependant of an individual or the individual's eligible spouse during a given taxation year who can be considered when calculating the basic amount will be granted for a dependant in respect of whom the individual or the individual's eligible spouse received, for the year, a child assistance payment or deducted, for the year, an amount as a tax credit for an adult child who is a student.

❑ Property tax refund

To reduce the property tax burden supported by low- and middle-income taxpayers, the *Act respecting property tax refund* provides for the reimbursement of a portion of the property tax collected by a municipality and a school board in respect of an eligible dwelling.

The eligibility conditions will be changed so that persons who are resident in Québec at the end of December 31 of a given year are entitled to a property tax refund for the year in respect of the dwelling in which they live on December 31 of that year, provided the person or the person's cohabiting eligible spouse on that date is the owner, tenant or subtenant of the dwelling.

❑ Premium payable under the Québec prescription drug insurance plan

The basic prescription drug insurance plan introduced by the Québec government ensures all Quebecers fair access to the medication required by their state of health. Coverage under this plan is provided by the Régie de l'assurance maladie du Québec (RAMQ), or by insurers transacting group insurance or administrators of private-sector employee benefit plans.

As a rule, all persons whose coverage is provided by RAMQ in a given year must, in filing their income tax return for that year, pay a premium to finance the Québec prescription drug insurance plan of which they are beneficiaries. However, to take each person's ability to pay into account, deductions are granted in calculating this annual premium. The amount of these deductions varies according to the family situation of persons required to pay such a premium.

For the purposes of calculating the amount of these deductions, the definition of "dependent child" will be changed to refer to either a child in respect of whom the individual or the individual's eligible spouse for the year received a child assistance payment or a child in respect of whom the individual or the individual's eligible spouse deducted an amount as a tax credit for an adult child who is a student or could have deducted such an amount if the individual had been resident in Québec throughout the year or, where the individual dies in that year, for the period of the year preceding the time of his death.

1.2 Work premium

Since 1988, low-income households with at least one dependent child have been able, in certain conditions, to obtain financial assistance under the Parental Wage Assistance program (hereafter the "PWA program"), where at least one adult in the household earns income from an employment or a business carried on.

The PWA program, administered by the ministère de l'Emploi, de la Solidarité sociale et de la Famille, is a component of the Québec income support system. Thus, the value of a household's property and liquid assets is taken into account for the purposes of this program.

As of January 1, 2005, the PWA program will be replaced by a refundable tax credit offering low- and middle-income workers a work premium designed to encourage them to enter, re-enter or stay in the labour market. Workers will be entitled to the new tax credit regardless of the value of their property or liquid assets and regardless of whether they have dependent children.

The following table shows the main parameters that will be used to determine the amount of the work premium available to low- and middle-income taxpayers.

TABLE 1.2

MAIN PARAMETERS OF THE WORK PREMIUM
(2005 taxation year)

	Person living alone	**Couple without children**	**Single-parent family**	**Couple with children**
Earned income excluded	$2 400	$3 600	$2 400	$3 600
Rate of tax credit	7%	7%	30%	25%
Maximum premium[1]	$511	$784	$2 190	$2 800
Reduction				
– reduction threshold[2]	$9 700	$14 800	$9 700	$14 800
– reduction rate	10%	10%	10%	10%
Eligibility limit[3]	*$14 810*	*$22 640*	*$31 600*	*$42 800*

(1) The maximum premium will be adjusted automatically upon variation in the reduction thresholds.

(2) This threshold will be adjusted as of January 1, 2006 to bring it into line with employment- assistance eligibility limits for recipients without a limited capacity for employment.

(3) Level of income as of which a household is no longer eligible for the work premium.

❑ Calculation of the work premium

An eligible individual who is residing in Québec at the end of December 31 of a given taxation year or, if the individual dies during the year, on the date of his death, may claim, for that year, a refundable tax credit equal to the amount determined using the following formula:

A – 10% (B – C)

For the purposes of the application of this formula:

- "A" represents the lesser of the amounts obtained using the formulas below:

  D (E – F) and D (G – F)

  where:

  - "D" represents:
    - 30%, where the eligible individual does not have an eligible spouse for the year and designates a dependant for the year on the prescribed form;
    - 25%, where the eligible individual has an eligible spouse for the year and designates a dependant for the year on the prescribed form;
    - 7% in all other cases;
  - "E" represents $9 700,[16] where the eligible individual does not have an eligible spouse for the year, and $14 800[17] in all other cases;
  - "F" represents $2 400, where the eligible individual does not have an eligible spouse for the year, and $3 600 in all other cases;
  - "G" represents the earned income of the eligible individual's household for the year;
- "B" represents the eligible individual's total income for the year;
- "C" represents $9 700,[18] where the eligible individual does not have an eligible spouse for the year, and $14 800[19] in all other cases.

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[16] This amount will be adjusted as of January 1, 2006 to bring it into line with employment-assistance eligibility limits for recipients without a limited capacity for employment.

[17] Ibid.

[18] Ibid.

[19] Ibid.

However, where, for a given taxation year, an eligible individual is the eligible spouse for the year of another eligible individual, the total of the amounts indicated by each of them on their income tax return must not exceed the amount that would be granted if only one of them were entitled to the tax credit. Failing an agreement between the eligible individuals, the Minister of Revenue will determine the amount each of them may claim.

❑ Eligible individual

An "eligible individual" for a given taxation year means an individual who, at the end of December 31 of that year in question or on the date of his death, is at least 18 years of age, an emancipated minor within the meaning of the *Civil Code of Québec*, the spouse of another individual, or the parent of a child with whom he lives, except where the individual is:

— a person in regard to whom another individual receives a child assistance payment for the year, unless the person turns 18 before December 1 of that year;

— a person in regard to whom another individual deducts an amount for the year, in the calculation of his income tax otherwise payable, respecting the tax credit for a child engaged in vocational training or postsecondary studies or the tax credit for an adult child who is a student;

— a person in regard to whom another individual includes an amount, for the year, in the calculation of the amount used to determine the refundable tax credit for individuals living in a northern village;

— a person designated by another individual as being the individual's dependant for the year, for the purposes of the application of this tax credit.

In addition, to qualify as an eligible individual, the individual must be a Canadian citizen, an Indian registered as such under the *Indian Act*, a permanent resident within the meaning of the *Immigration and Refugee Protection Act*, or a person to whom asylum has been granted under that Act.

However, an individual will not be able to qualify as an eligible individual for a given taxation year if he or his eligible spouse for the year is exempt from income tax for the year.

❑ Earned income of the household

The earned income of an eligible individual's household for a given taxation year will be equal to the aggregate of the individual's earned income for the year and that of his eligible spouse for the year.

An individual's earned income for a given taxation year means an amount equal to the aggregate of the following amounts:

— the individual's income for the year from an office or employment, calculated without taking into account capital cost allowance for a musical instrument, a motor vehicle or an aircraft or the deduction for contributions to a registered pension plan, other than such income situated or deemed to be situated on a reserve or premises, where the eligible individual is an Indian or a person of Indian ancestry;

— the individual's income from a business for the year, calculated without taking into account capital cost allowance or the deduction for a terminal loss, minus the losses from that business thus calculated for the year, other than such income situated or deemed to be situated on a reserve or premises, where the eligible individual is an Indian or a person of Indian ancestry.

Where an eligible individual is a member of a partnership at the end of a fiscal period of the partnership, any amount deducted by the partnership respecting capital cost allowance or a terminal loss in the calculation of its income from a business for that fiscal period will be deemed to have been deducted by the eligible individual in the calculation of his income from that business for the taxation year during which the fiscal period ends, without exceeding the individual's share of the amount deducted by the partnership.

In that regard, an eligible individual's share of the amount deducted by a partnership will be equal to the proportion of that amount represented by the ratio between the individual's share of the partnership income or loss for the partnership's fiscal period ending in the taxation year and the partnership income or loss for that fiscal period.

❑ Total income

An eligible individual's total income for a given taxation year will be equal to the aggregate of the income of the eligible individual and his eligible spouse for the year and the portion of the income for the year, in excess of $6 275,[20] of the dependant designated by the eligible individual on the prescribed form.

❑ Eligible spouse

For the purposes of the application of the tax credit, "eligible spouse," in regard to an eligible individual for a given taxation year, means:

— the person who is the eligible individual's spouse at the end of the year and who, at that time, is not living apart from the individual;

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[20] This amount will be indexed automatically as of January 1, 2005. The indexing formula is described in subsection 1.5.

- the last person who is the eligible individual's spouse during the year, if the individual does not have a spouse at the end of the year, where that person dies during the year and, at the time of death, is the individual's spouse and is not living apart from the individual;
- the eligible individual's spouse, if the eligible individual dies during the year and has a spouse at the time of death, unless that person is living apart from the individual at that time or is the spouse of another individual at the end of the year or, where that person dies in the year, at the time of death; or
- the last person who is the eligible individual's spouse during the year, if the individual dies during the year and does not have a spouse at the time of death, where that person dies during the year and, at the time of death, is the individual's spouse and is not living apart from the individual.

In this regard, a person will be considered to be living apart from an individual only if, at any time in a taxation year, the person is living apart from the individual at that time because of the breakdown of their relationship and the separation lasts for a period of at least 90 days including that time.

Moreover, considering that, for the purposes of the application of the tax legislation, an individual may have two spouses at the same time, since "spouse" can mean a person who is in a *de facto* union while married to or in a civil relationship with another person, a presumption will be established so that, for a given taxation year, an individual has just one eligible spouse and is the eligible spouse of only that person. Where a person is the eligible spouse of more than one individual for a taxation year, the Minister of Revenue may designate which of these individuals is deemed to have that person as his only eligible spouse for the year, and that person will be deemed to be the eligible spouse for the year of only the individual thus designated by the Minister.

☐ Designated dependant

The person who, for a given taxation year, may be designated as a dependant by an eligible individual is a person who, during the year, is a child[21] of the eligible individual or his eligible spouse for the year, provided that person is, as the case may be:

- a person in regard to whom the individual or his eligible spouse receives a child assistance payment for the year;

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[21] A "child of an individual" is a person who is connected to the individual by filiation, a person who is the child of the individual's spouse, a person who is wholly dependent on the individual for support and of whom the individual has, or immediately before such person attained the age of 19 did have, in fact or in law, the custody and control, or a person who is the spouse of a child of the individual.

- a person who, during the year, is under 18, ordinarily lives with the eligible individual and is neither the parent of a child with whom he lives nor an emancipated minor. Where custody of the person is shared under a judgment or, in the absence of a judgment, under a written agreement, the person will be considered to ordinarily reside with the eligible individual only if, for the year, the individual has custody of the person at least 30% of the time;
- a person in regard to whom the individual or his eligible spouse for the year deducts, in the calculation of income tax otherwise payable, an amount respecting the tax credit for a child engaged in vocational training or postsecondary studies, or in regard to whom such an amount could be deducted were it not for the person's income for the year.

The tax legislation will be amended to provide that, where, for the purposes of the application of this tax credit, an eligible individual designates a dependant for a given taxation year on the prescribed form, that person cannot, for that year, be considered an eligible individual for the purposes of the application of the refundable QST credit or the refundable tax credit for individuals living in a northern village.

☐ Other application details

Where an individual goes bankrupt during a given calendar year, the rule under which the bankrupt's taxation year is deemed to begin on the date of the bankruptcy and the current taxation year is deemed to end the day before that date will not apply for the purpose of determining the tax credit.

Where a person does not reside in Canada throughout a given taxation year, the person's income for the year will be deemed to be equal to the income that would be determined in his regard were the person to reside in Québec and Canada throughout the year or, if the person dies during the year, throughout the period of the year preceding his death.

☐ Advance payments to families

To better support parents who stay in the labour market, the Minister of Revenue may pay part of the work premium in advance.

More specifically, upon request by an individual who believes he is entitled to a work premium for a given taxation year, the Minister of Revenue may pay part of the premium in advance if he is convinced that the following conditions have been met:

- the individual was residing in Québec at the time of the request;

- the individual is the parent of a child with whom he was living at the time of the request, and is not a person in regard to whom another individual is entitled to receive a child assistance payment for the year, unless the individual turned 18 before the first day of the month of his request;
- the individual is a Canadian citizen, an Indian registered as such under the *Indian Act*, a permanent resident within the meaning of the *Immigration and Refugee Protection Act*, or a person to whom asylum was granted under that Act;
- the individual was actively participating in the labour market at the time of the request;
- the amount of the work premium to which the individual believes he is entitled for the year exceeds $500.

The request for advance payment of the work premium must be made on the prescribed form and accompanied by all documents considered necessary by the Minister of Revenue. Regarding a given taxation year, the request must be made no later than September 1 of that year.

Where, at the time of the request, an individual is the spouse of a person who believes he is also entitled to the work premium for the year, only one of them may submit a request for advance payment to the Minister of Revenue.

• Payment schedule

Each year, on the 15th of January, April, July and October, the Minister of Revenue will make advance payments of the work premium.

• Amount of advance payments

The amount of the advance payments that may be made to an individual by the Minister of Revenue for a given taxation year will be equal to half of the individual's estimated work premium for the year.

That amount will be paid in equal instalments on each of the dates of the payment schedule that follows the date on which the amount was determined. For example, an amount that is determined in March of a given year will be paid in three equal instalments, that is, on the 15th of April, July and October.

• Change of situation

An individual must notify the Minister of Revenue promptly of any change in his situation or that of his family that might influence the advance payments to which he is entitled.

• Advance payments deemed to be income tax payable

An individual must pay, for a given taxation year, income tax equal to the total of the amounts received for that year as advance payments of the work premium.

That income tax is payable no later than April 30 of the year following the given taxation year, unless the individual dies after October 31 of the given taxation year, but before May 1 of the following year, in which case the income tax is payable no later than the day that is six months after the date of death.

Moreover, where, for a given taxation year, the Minister of Revenue pays an individual an amount as advance payments of the work premium for workers, the individual and the person who, for the year, is his eligible spouse are solidarily liable for the payment of the income tax relating to the receipt of the amount.

❑ Adjustment of the work premium

As of January 1, 2006, the reduction thresholds of the work premium will be adjusted to bring them into line with employment-assistance eligibility limits for recipients without a limited capacity for employment. The reduction thresholds applicable for a given taxation year will be determined using the following formula:

$$A_{t-1} + \frac{(12\,B_t - 12\,B_{t-1})}{(1 - C_t - D_t)}$$

For the purposes of the application of this formula:

- "A_{t-1}" represents:
  - where the formula is applied to determine the reduction threshold of an eligible individual who has an eligible spouse for the year, the reduction threshold that would have been applied to the individual for the taxation year preceding the given taxation year;
  - where the formula is applied to determine the reduction threshold of an eligible individual who does not have an eligible spouse for the year, the reduction threshold that would have been applied to the individual for the taxation year preceding the given taxation year;

- "B_t" represents:
  - where the formula is applied to determine the reduction threshold of an eligible individual who has an eligible spouse for the year, the amount, for the year, of the basic employment assistance benefit for a two-adult family;
  - where the formula is applied to determine the reduction threshold of an eligible individual who does not have an eligible spouse for the year, the amount, for the year, of the basic employment assistance benefit of an adult living alone or a one-adult family;
- "B_{t-1}" represents:
  - where the formula is applied to determine the reduction threshold of an eligible individual who has an eligible spouse for the year, the amount, for the year preceding the given taxation year, of the basic employment assistance benefit for a two-adult family;
  - where the formula is applied to determine the reduction threshold of an eligible individual who does not have an eligible spouse for the year, the amount, for the year preceding the given taxation year, of the basic employment assistance benefit for an adult living alone or a one-adult family;
- "C_t" represents half the Québec Pension Plan contribution rate for the given taxation year;
- "D_t" represents the employment insurance premium rate for the given taxation year.

Where the result obtained is not an even whole number, it will be adjusted to the nearest even whole number or, if it is equidistant between two even whole numbers, to the nearest higher even whole number.

❑ Accessory rules

To receive the work premium for a given taxation year, an eligible individual and, where applicable, his eligible spouse for the year must enclose the form prescribed by the Minister of Revenue with the income tax return they file for that year.

To avoid reducing the tax assistance granted, the work premium will be not be taxable. Furthermore, the premium, except the portion that is paid in advance, may be used to reduce the eligible individual's income tax instalments.

1.3 Advance payment of the refundable tax credit for child-care expenses

Under the taxation system, parents who do not pay the reduced contribution for child-care services can claim a refundable tax credit for child-care expenses they pay in order to work, continue their studies or actively seek employment.

The refundable tax credit for child-care expenses is determined by applying, to eligible child-care expenses, a rate established on the basis of family income. The rate varies from 75% to 26% and is determined using a table with 51 family income brackets.

The refundable tax credit respecting child-care expenses paid for a given year is determined in conjunction with the processing of the taxpayer's income tax return, which must generally be filed by April 30 of the following year.

However, some parents can benefit in advance from all or part of the refundable tax credit to which they are entitled for a given year, by submitting a return to their employer specifying the amount to be deducted from their remuneration, for the purpose of calculating source deductions, in order to take into account the tax credit to which they believe they are entitled for the year.

Similarly, self-employed workers can use their estimated tax credit for child-care expenses for the year to reduce their income tax instalments payable for that year.

Parents who receive amounts under the Parental Wage Assistance program (hereafter the "PWA program") can receive in advance all or part of the tax credit for child-care expenses to which they believe they are entitled.

Given the elimination of the PWA program as of January 1, 2005,[22] and considering that, in many cases, the income tax payable for a given year through source deductions or instalment payments prevents many taxpayers from receiving in advance full payment of the refundable tax credit for child-care expenses to which they are entitled for the year, a new mechanism for advance payment of the tax credit will be introduced as of 2005.

This mechanism will replace the possibility for employees to have their employer take the tax credit for child-care expenses to which they believe they are entitled into account for the purpose of calculating their source deductions.

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[22] The PWA program will be replaced by a work premium as of January 1, 2005. Subsection 1.2 describes the premium in detail.

In addition, self-employed workers who take advantage of this new mechanism will no longer be authorized to use their estimated tax credit for child-care expenses for a given year to reduce their income tax instalments payable for that year.

☐ Advance payment to families

Upon request by an individual who believes he is entitled to the refundable tax credit for child-care expenses for a given taxation year, the Minister of Revenue may pay part of the tax credit in advance if he is convinced that the following conditions have been met:

- the individual was residing in Québec at the time of the request;
- the individual is a Canadian citizen, a permanent resident within the meaning of the *Immigration and Refugee Protection Act*, or a person to whom asylum was granted under that Act;
- the individual is the parent of a child with whom he was living at the time of the request;
- the individual meets the eligibility requirements for the tax credit;
- the person who provides child-care services to the individual's child confirmed the child-care rate and the number of days during which the child will receive the services during the year;
- the amount of the tax credit to which the individual believes he is entitled for the year exceeds $1 000, unless the individual believes he is also entitled to a work premium of more than $500 for the year.

The request for advance payment of the tax credit for child-care expenses must be made on the prescribed form and accompanied by all documents considered necessary by the Minister of Revenue. Regarding a given taxation year, the request must be made no later than September 1 of that year.

Where, at the time of the request, an individual is the spouse of a person who believes he is also entitled to the tax credit for the year, only one of them may submit a request for advance payment to the Minister of Revenue.

• Payment schedule

Each year, on the 15th of January, April, July and October, the Minister of Revenue will make advance payments of the tax credit for child-care expenses.

- **Amount of advance payments**

The amount of the advance payments that may be made to an individual by the Minister of Revenue for a given taxation year will be established by applying, to the eligible child-care expenses the individual believes he will be required to pay for the year, the rate provided for in the Table of Applicable Rates for Advance Payment of the Tax Credit for Child-Care Expenses on the basis of the individual's estimated family income for the year.

TABLE 1.3

TABLE OF APPLICABLE RATES FOR ADVANCE PAYMENT OF THE TAX CREDIT FOR CHILD-CARE EXPENSES

Estimated family income[1] ($)		**Applicable rate %**	**Estimated family income[1] ($)**		**Applicable rate %**
Over	Without exceeding		Over	Without exceeding	
—	28 705	75	55 280	60 595	45
28 705	34 015	70	60 595	65 905	40
34 015	39 330	65	65 905	71 220	35
39 330	44 645	60	71 220	76 535	30
44 645	49 965	55	76 535	and over	26
49 965	55 280	50			

(1) Each estimated family income bracket will be indexed as of January 1, 2005.

The amount determined by the Minister of Revenue will be paid in equal instalments on each of the dates of the payment schedule that follows the date on which the amount was determined. For example, an amount that is determined on May 1 of a given year will be paid in two equal instalments, that is, on the 15th of July and October.

The following table presents the amount of the quarterly payments that will be received by an individual on the basis of his estimated family income for the year, where the individual pays $25 a day in order to obtain child-care services for an eligible child for 260 days in the year.

TABLE 1.4

QUARTERLY PAYMENT AMOUNTS ATTRIBUTABLE TO ELIGIBLE CHILD-CARE EXPENSES OF $6 500 A YEAR

Estimated family income[1] ($)		Applicable rate %	Tax credit paid in advance $	Amount of quarterly payments ($)
Over	Without exceeding			
—	28 705	75	4 875	1 218.75
28 705	34 015	70	4 550	1 137.50
34 015	39 330	65	4 225	1 056.25
39 330	44 645	60	3 900	975.00
44 645	49 965	55	3 575	893.75
49 965	55 280	50	3 250	812.50
55 280	60 595	45	2 925	731.25
60 595	65 905	40	2 600	650.00
65 905	71 220	35	2 275	568.75
71 220	76 535	30	1 950	487.50
76 535	and over	26	1 690	422.50

(1) Each estimated family income bracket will be indexed as of January 1, 2005.

- **Change of situation**

An individual must notify the Minister of Revenue promptly of any change in his situation or that of his family that might influence the advance payments to which he is entitled.

- **Advance payments deemed to be income tax payable**

An individual must pay, for a given taxation year, income tax equal to the total of the amounts received for that year as advance payments of the tax credit for child-care expenses.

That income tax is payable no later than April 30 of the year following the given taxation year, unless the individual dies after October 31 of the given taxation year, but before May 1 of the following year, in which case the income tax is payable no later than the day that is six months after the date of death.

Moreover, where, for a given taxation year, the Minister of Revenue pays an individual an amount as advance payments of the tax credit for child-care expenses, the individual and the person who, for the year, is his eligible spouse, for the purposes of the application of the tax credit for child-care expenses, are solidarily liable for the payment of the income tax relating to the receipt of the amount.

1.4 Simplification of the personal income tax system

Since 1998, individuals have had to choose between two tax systems—the general system and the simplified system—to calculate their income tax payable for a given taxation year.

The simplified system was brought in to enhance the fairness of the tax system by giving taxpayers the possibility of claiming a flat amount instead of a series of deductions and non-refundable tax credits, most of which constitute tax preferences.

Originally, the flat amount was supposed to replace 100 or so deductions and non-refundable tax credits. However, over the years, the number of deductions and tax credits replaced by the flat amount has been considerably reduced, whether it be to redress unfairness, attain tax policy objectives or simply enable more taxpayers to take advantage of the simplified system. As a result, the simplified system is less and less different from the general system.

In this context, the co-existence of two personal income tax systems is no longer justified, especially since the relevance of the tax preferences specific to the general system was re-examined, in conjunction with the work preparatory to the June 12, 2003 Budget Speech and this Budget Speech, and, as a result, a number of the preferences were reduced, even eliminated.

Hence, to avoid needlessly complicating the personal income tax system, the simplified system will be eliminated as of the 2005 taxation year.

However, to maintain the advantages represented by the flat amount for low- or middle-income taxpayers, a complementary amount at least equal to the flat amount will be added to the amount of recognized essential needs to form the basic amount that will be granted for the purposes of calculating the basic personal tax credit.

❑ Calculation of the basic amount

As of the 2005 taxation year, the basic amount that may be taken into account in the calculation of the basic personal tax credit to reduce the income tax otherwise payable by a taxpayer for a given taxation year will be equal to the aggregate of the amount of recognized essential needs for the year and a complementary amount corresponding to a minimum of $2 925, subject to automatic indexation as of January 1, 2005,[23] or the total of the following amounts, whichever is higher:

- the amount payable for the year by the taxpayer as employee premiums under the *Employment Insurance Act*;
- the amount payable for the year by the taxpayer as employee contributions under the *Act respecting the Québec Pension Plan* or an equivalent plan;
- the amount corresponding to 50% of the amount payable for the year by the taxpayer as contributions on self-employment income under the *Act respecting the Québec Pension Plan* or an equivalent plan;
- the amount payable for the year by the taxpayer for the purposes of the 1% contribution to the Health Services Fund (HSF).

The work chart below shows the steps to be followed in calculating the basic amount.

Calculation of the basic amount[1]

Amount of recognized essential needs					1	6 275	00
QPP contributions (max.: $1 831.50)[2]		2					
Employment insurance premiums (max.: $772.20)	+	3					
Contribution to the Health Services Fund (max.: $1 000)	+	4					
Total of lines 2 to 4. **Total contributions and premiums**	=	5					
Complementary amount: **$2 925** or the amount from line 5, whichever is higher.				+	6		
Total of lines 1 and 6. **Basic amount**				=	7		

1 Data for 2004 were used for the purposes of this example.

2 Includes, as applicable, the amount corresponding to 50% of the amount paid as contributions on self-employment income.

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[23] The indexing formula is described in subsection 1.5.

❑ Application details

• Taxpayers who go bankrupt during the year

Under the tax legislation, an individual who goes bankrupt during a calendar year is deemed to have two taxation years during that calendar year: one covering the period from January 1 to the day before the bankruptcy (pre-bankruptcy); the second covering the period from the day of the bankruptcy to December 31 (post-bankruptcy).

For each of these taxation years, the amount of recognized essential needs and the minimum amount used to calculate the complementary amount will correspond respectively to the portion of that amount represented by the ratio between the number of days in the taxation year concerned and the number of days in the calendar year.

For greater clarity, only the portion of the amounts paid as contributions to the Québec Pension Plan (or an equivalent plan) and as employment insurance premiums that is fully attributable to each of the pre-bankruptcy and post-bankruptcy taxation years will be taken into account in calculating the basic personal tax credit for those years. The 1% contribution to the HSF will be taken into account only in calculating the basic personal tax credit for the post-bankruptcy taxation year.

In the case of an individual who goes bankrupt in a calendar year, the total of the basic amounts used to calculate the basic personal tax credit for the pre-bankruptcy and post-bankruptcy taxation years cannot in any case exceed the amount that would have been granted had the individual not gone bankrupt in the calendar year.

• Taxpayers who reside outside Canada throughout the year

Taxpayers who do not reside in Canada at any time during a taxation year and who, in particular, are employed in Québec or carry on a business there during that year or a previous taxation year may claim the basic personal tax credit, provided all or almost all of their income for the year is included in the calculation of their taxable income earned in Canada for the year.

Taxpayers who meet that condition may deduct, in the calculation of their income tax otherwise payable for the year, the portion of the amount deductible as the basic personal tax credit otherwise determined, represented by the proportion, which cannot exceed 1, that exists between their income earned in Québec and that earned in Canada.

Taxpayers who reside in Canada for part of the year

Where taxpayers reside in Canada for only part of a given taxation year, the following rules will apply for determining the amount they may deduct, as the basic personal tax credit, in the calculation of their income tax otherwise payable for the year:

- regarding any period of the year throughout which the taxpayer resides in Canada, the deductible amount must be calculated by replacing each of the given amounts—i.e. the amount of recognized essential needs and the minimum amount used to calculate the complementary amount—by an amount equal to the proportion of the given amount represented by the ratio between the number of days in that period and the number of days in the year, as if that period constituted a full taxation year. For greater clarity, only the portion of the amounts paid as contributions to the Québec Pension Plan (or an equivalent plan), employment insurance premiums and the contribution to the HSF that is fully attributable to that period may be taken into account in the calculation of the basic personal tax credit for that period;
- regarding a period in the year during which the taxpayer resided outside Canada, the deductible amount must be calculated as if the taxpayer had lived outside Canada throughout the taxation year.

However, the amount the taxpayers may deduct for the year cannot exceed the amount that would have been deductible as the basic personal tax credit had they resided in Canada throughout the year.

❑ Basic amount for source deduction purposes

For 2005 and subsequent taxation years, the basic amount will be $9 200 for the purpose of calculating the amount of personal tax credits of an employee who files the *Source Deductions Return* with a given payer and the source deductions applicable to the remuneration paid to an employee who has never filed such return with a given payer. The basic amount will be indexed automatically on an annual basis, as of January 1, 2005.[24]

An amount equivalent to the basic amount will also be used to calculate the amount for spouse for the purpose of determining the amount of the personal tax credits of an employee who files the *Source Deductions Return* with a given payer.

1.5 New indexing formula

Since January 1, 2002, the main parameters of the personal income tax system have been indexed.

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[24] Ibid.

This indexation applies to each taxable income bracket of the tax table, to the amounts of essential needs recognized by the tax system, to the various family income brackets defined in the rate table used to calculate the refundable tax credit for child-care expenses, to the parameters used for the purpose of calculating the refundable QST credit, the refundable tax credit for medical expenses and the refundable tax credit for individuals living in a northern village, as well as to the parameters used for the purpose of calculating the property tax refund.

The basic amount and the amount for spouse used to calculate source deductions,[25] as well as the various income brackets in the table used to calculate the 1% contribution to the HSF – generally payable by individuals who receive income other than employment income – are also indexed as of January 1, 2003.

For each of taxation years 2002 and 2003, the indexing factor used was equal to the percentage change in the average Québec consumer price index (QCPI) for the 12-month period ending on September 30 of the year preceding the one for which an amount was to be indexed, compared with the average QCPI for the 12-month period that ended on September 30 of the year prior to the year preceding the one for which an amount was to be indexed. In 2004, the main parameters of the personal income tax system were indexed by 2%.

Starting January 1, 2005, a new indexing factor, which will notably disregard any change in liquor and tobacco taxes, will be used to automatically index the main parameters of the personal income tax system.

More specifically, the new indexing factor will correspond to the percentage change in the overall average Québec consumer price index without alcoholic beverages and tobacco products (QCPI-WAT) for the 12-month period ending on September 30 of the year preceding the one for which an amount is to be indexed, compared with the average QCPI-WAT for the 12-month period that ended on September 30 of the year prior to the year preceding the one for which an amount is to be indexed.

All three taxable income brackets in the tax table will automatically be indexed, as will the various income brackets defined in the rate table used to calculate the refundable tax credit for child-care expenses and the rate table used to calculate the advance payments of the tax credit for child-care expenses.

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[25] The basic amount and the amount for spouse are used for the purpose of establishing the amount of personal tax credits of an employee filing, with a given payer, a *Source Deductions Return*. The basic amount is also used to determine the income tax witholding at source applicable to the remuneration paid to an employee who has never filed, with a given payer, a *Source Deductions Return*.

The other parameters that will automatically be indexed are shown in the table below.

TABLE 1.5

MAIN PARAMETERS OF THE TAX SYSTEM SUBJECT TO AUTOMATIC INDEXATION
(in dollars)

Parameters	Amount
Basic amount	
Amount of recognized essential needs	6 275
Minimum amount used to calculate complementary amount	2 925
Amount for a person living alone	1 115
Child assistance payment	
Maximum basic amount for a 1st child[1]	2 000
Maximum basic amount for a 2nd and 3rd child[1]	1 000
Maximum basic amount for a 4th child and subsequent children[1]	1 500
Maximum amount for a single-parent family[1]	700
Minimum basic amount for a 1st child	553
Minimum basic amount for a 2nd child and subsequent children	510
Minimum amount for a single-parent family	276
Monthly allowance for handicapped children	119.22
Amounts respecting dependants	
Amount respecting a child engaged in vocational training or postsecondary studies – per term (maximum 2)	1 755
Amounts respecting an adult child who is a student	
— child designated as the 1st child	2 765
— subsequent children	2 550
— single-parent family	1 380
Amount respecting other dependants	2 550
Amount respecting other dependants with an infirmity	6 275
Reduction threshold for certain tax credits[2]	27 635
Parameters for certain refundable tax credits	
QST tax credit	
— basic amount	163
— amount for spouse	163
— amount for a person living alone	110
Tax credit for medical expenses	
— maximum amount	535
— reduction threshold	18 600
Tax credit for individuals living in a northern village	
— monthly basic amount	38
— monthly amount for spouse	38
— monthly amount for a dependant	15
Work premium	
— Excluded income of designated dependant	6 275

Parameters (cont.)	Amount
Source deduction parameters	
Basic amount	9 200
Amount for spouse	9 200
Property tax refund parameters	
Maximum allowable taxes	1 365
Taxes deducted per adult	455
Reduction threshold	27 635
1% contribution by individuals to the HSF	
Maximum threshold of the first income bracket	11 905
Maximum threshold of the second income bracket(3)	41 400

(1) This amount will not be indexed until January 1, 2006.

(2) Tax credit for a person living alone, with respect to age or for retirement income, refundable QST tax credit and refundable tax credit for individuals living in a northern village.

(3) For the purposes of calculating the 1% contribution to the HSF, the last income bracket includes all income in excess of the maximum threshold applicable to the second income bracket.

For greater clarity, if the result obtained by applying the new indexing factor to a given parameter does not correspond to a multiple of $5, it will be adjusted to the nearest multiple of $5 or, if it is equidistant from two multiples of $5, to the nearest higher multiple of $5. However, to prevent an adjustment to the nearest multiple of $5 from being without effect, the adjustment will be made to the nearest multiple of $1 for some of these parameters.[26]

1.6 Introduction of a refundable tax credit for new graduates working in a remote resource region

Currently, few young people who leave their native region to pursue specialized studies return there to begin their professional career. This migration of young people to major urban centres is a social phenomenon of the utmost concern for the future of outlying regions, because it affects them demographically as well as socially and economically.

On March 11, 2003, the previous government announced the introduction of a refundable tax credit for new graduates working in a remote resource region. However, the June 12, 2003 Budget Speech, one of whose goals was to tighten tax expenditures, announced that this measure would not be implemented. After a more thorough examination of the demographic issues affecting outlying regions, it was decided to reintroduce this measure.

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[26] To prevent an adjustment to the nearest multiple of $5 from being without effect, the adjustment will be made to the nearest multiple of $1 or, if the result is equidistant from two multiples of $1, to the nearest higher multiple of $1 regarding the monthly allowance for handicapped children used to calculate the child assistance payment, the basic amount, the amount for spouse and the amount for a person living alone used for the purpose of calculating the refundable QST tax credit and the monthly basic amount, amount for spouse and amount for a dependant used for the purpose of calculating the refundable tax credit for individuals living in a northern village.

Thus, in order to encourage new graduates to settle in a remote resource region to begin their professional career, they are being granted tax assistance in the form of a refundable tax credit of up to $8 000.

❑ Determination of the tax credit

Eligible individuals who reside in an eligible region of Québec at the end of December 31 of a given taxation year, or on the date of their death if they die during the year, may claim, for that year, a refundable tax credit equal to 40% of their eligible salary for the year, without exceeding the amount by which $8 000 exceeds any amount claimed as this tax credit for a taxation year prior to the taxation year concerned.

To claim this tax credit for a given taxation year, individuals must enclose with their income tax return for the year a form prescribed by the Minister of Revenue.

❑ Eligible individual

An eligible individual for a given taxation year means an individual who has successfully completed the training[27] leading to a recognized diploma and who receives an eligible salary during the year.

❑ Recognized diploma

The following are considered recognized diplomas:

- a Diploma of Vocational Studies (DVS), an Attestation of Vocational Specialization (AVS) or a Vocational Education Certificate (VEC) awarded by the Minister of Education;
- a Diploma of College Studies in technical training (DCS in technical training) awarded by the Minister of Education, or by a college-level educational institution if the Minister of Education delegated that responsibility to the institution;
- an Attestation of College Studies (ACS) in technical training awarded by a college-level educational institution in Québec;
- a university diploma sanctioning a program of studies at the undergraduate or graduate level, awarded by a Québec university;
- a diploma awarded by an educational institution outside Québec and regarding which the Minister of Relations with the Citizens and Immigration has issued an equivalency for any of the diplomas listed above;

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[27] For greater clarity, training refers to courses and internships, but does not include any period during which a student is writing an essay, a dissertation or a thesis.

- a certification of studies for a postsecondary program of the Conservatoire de musique et d'art dramatique du Québec, the Bar School of Québec, the École nationale de police du Québec or the National Theatre School of Canada.

❑ Eligible salary

An individual's eligible salary for a given taxation year corresponds to the income derived for the year from an eligible job attributable to the individual's reference period.

To that end, an individual's reference period is the period, not exceeding 52 weeks, which begins in the taxation year concerned or a previous taxation year and during which the individual holds one or more eligible jobs.

For greater clarity, the weeks during which an individual does not hold an eligible job will not be taken into account in determining the duration of his or her reference period.

❑ Eligible job

An eligible job refers to an office or employment that an individual takes up within 24 months after having successfully completed the training [28] leading to a recognized diploma or after having obtained a university diploma sanctioning a course of studies at the graduate level further to writing of an essay, a dissertation or a thesis needed to obtain such a diploma, provided:

- the office or employment is in relation to the field of specialization in which the individual was trained; and
- the employer's establishment where the individual ordinarily works, or to which the individual ordinarily reports, is located in an eligible region.

❑ Eligible region

The term "eligible region" means the territories included in the following administrative regions and regional county municipalities (RCMs):

- Bas-Saint-Laurent (region 01);
- Saguenay–Lac-Saint-Jean (region 02);
- the Haut-Saint-Maurice RCM;
- the Mékinac RCM;

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[28] Ibid

- Abitibi–Témiscamingue (region 08);
- Côte-Nord (region 09);
- Nord-du-Québec (region 10);
- Gaspésie–Îles-de-la-Madeleine (region 11);
- the Antoine-Labelle RCM;
- the Vallée-de-la-Gatineau RCM;
- the Pontiac RCM.

❑ Application detail

Where an individual goes bankrupt during a given calendar year, the rule under which the bankrupt's taxation year is deemed to begin on the date of the bankruptcy and the current taxation year is deemed to end the day before that date will not apply for the purpose of determining the tax credit.

❑ Application date

This tax credit will apply to individuals who take up an eligible job after the day of this Budget Speech.

1.7 Eligibility of performers for the deduction respecting copyright income

The current tax system provides that an individual who, in a taxation year, is a professional artist within the meaning of the *Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters* or an artist within the meaning of the *Act respecting the professional status and conditions of engagement of performing, recording and film artists*, hereinafter referred to as a "recognized artist" that files his income tax return according to the rules of the general tax system may claim, for that year, a deduction in the calculation of taxable income so as to exempt from income tax part of the income from copyrights of which he is the first owner.

For the purposes of application of this deduction, the amount of public lending rights received under a federal program administered by the Public Lending Right Commission are considered as copyright income. However, this deduction does not apply to performers' income from their copyright in their performance or a neighbouring right.

This deduction, which cannot exceed $15 000 of such income per year, is reduced by $0.50 for every dollar of copyright income that exceeds $30 000. Thus, a recognized artist who earns income of $60 000 or more in a given year from the copyrights in works of his creation cannot claim any deduction in this respect for that year.

Aware of the contribution artists make to Québec's identity and vibrant culture, as well as the monetary problems suffered by many artists due to the special nature of their field, the government has undertaken to introduce measures to help them make a better living from their art.

Changes will therefore be made to the deduction respecting copyright income to reflect certain amendments made to the *Copyright Act* since this deduction was introduced.

❑ Recognition of a performer's copyright in his performance

Currently, an amount derived from an exclusive right conferred upon an individual in relation to his performance as a performing artist cannot give entitlement to the deduction respecting copyright income.

However, the *Copyright Act* confers upon a performer a copyright in the performer's performance. As a rule, the performer's copyright in his performance includes the exclusive right to authorize or prohibit the fixation of the performance in any material form and the renting out of the sound recording. It also gives performers a certain degree of control over the communication of their performance to the public, where the performance is not already fixed, and over the reproduction of the fixation of their performance.

Consequently, the tax legislation will be amended to extend the deduction respecting copyright income to income derived from a performer's copyright in his performance.

More specifically, the rules used to determine eligible income for this deduction, for a recognized artist, will be changed so that the amounts derived from a performer's copyright in his performance is included in the calculation of the performer's copyright income, where these amounts are included in the calculation of the performer's income for the year.

❑ Recognition of performers' right to equitable remuneration

Under the *Copyright Act*, performers are generally entitled to equitable remuneration for the performance in public or the communication to the public by telecommunication of the sound recording of their performance.[29] Thus, royalties may be paid where, for example, such a sound recording is broadcast on the radio or is used as mood music in certain establishments, such as restaurants.

In short, the royalties paid pursuant to the right to equitable remuneration are, in the case of sound recordings of musical works, primarily levied by a collective society according to the tariff certified by the Copyright Board of Canada. The royalties are then divided among the performers according to specific terms and conditions.

To account for the fact that the amounts received by performers pursuant to their right to equitable remuneration are closely related to the royalties received by authors of musical works for their copyright, notably for radio play of their music, the tax legislation will be amended so that these royalties are also considered for the purposes of the deduction respecting copyright income.

More specifically, the rules used to determine eligible income for this deduction, for a recognized artist, will be changed so that the amounts derived from the right to equitable remuneration conferred by the *Copyright Act* for the performance in public or the communication to the public by telecommunication of a sound recording of the performer's performance are included in the calculation of the performer's copyright income, where these amounts are included in the calculation of the performer's income for the year.

❑ Recognition of authors' and performers' right to remuneration for private copying

The *Copyright Act* allows for the reproduction of a sound recording of a musical work or the performance of a musical work on certain recording media for private use, without violating a copyright.

Consequently, authors and performers are generally entitled, under the *Copyright Act*, to remuneration for the private copying of sound recordings of musical works or performances of a musical work.[30] In accordance with this right, manufacturers and importers of blank audio media pay royalties according to a tariff certified by the Copyright Board of Canada.

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[29] Section 19 of the *Copyright Act*.

[30] Section 81 of the *Copyright Act*.

This right was essentially introduced to compensate authors and performers, among others, for lost earnings due to the reproduction of recordings or performances of their musical works for private use.

In short, royalties are paid to a collection body designated by the Copyright Board, namely, the Canadian Private Copying Collective, which represents collective societies representing, among others, authors and performers. The collected royalties are divided among the various right holders of a single group based on representative samples of radio play and album sales.

To enable recognized artists to claim the deduction respecting copyright income relating to these royalties, the rules used to determine eligible income for this deduction will be changed so that the amounts arising from the right to remuneration conferred by the *Copyright Act* for the private copying of sound recordings are included in the calculation of the recognized artist's copyright income, where these amounts are included in the calculation of the artist's income for the year.

☐ Clarification

For greater clarity, a recognized artist must be the first owner of the copyright in his performance, the right to equitable remuneration for the sound recording of his performance and the right to remuneration for the private copying of sound recordings in order to claim the deduction respecting copyright income for income derived from such rights.

☐ Application date

These measures will apply as of the 2004 taxation year.

1.8 Averaging of income from artistic activities

On February 24, 2004, the Minister of Culture and Communications released a socioeconomic portrait of artists drawn from the income tax returns of some 14 000 artists.

One of the observations arising from this portrait is that the income of many artists fluctuates significantly from one year to the next. In fact, over one quarter of artists see their income fluctuate at least 50% from year to year due to the special nature of their field.

Given the government's commitment to implementing a policy to help artists make a better living from their art, a new measure will be introduced to enable some of them to defer the tax on a portion of their income.

In short, a recognized artist who acquires an eligible income-averaging annuity may spread, over a maximum period of seven years, the tax applicable to the portion of his year's income derived from artistic activities that exceeds $50 000.

❏ Deduction of the amount paid to acquire an eligible income-averaging annuity

A recognized artist for a given taxation year may deduct, in the calculation of his income for the year, an amount not in excess of the income eligible for averaging for the year that the artist pays, during the year or the 60 days following the end of the year, to acquire an eligible income-averaging annuity, to the extent that such amount was not deducted the previous taxation year.

❏ Recognized artist

A recognized artist, for a given taxation year, means an individual who, during that year, is a professional artist within the meaning of the *Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters* or an artist within the meaning of the *Act respecting the professional status and conditions of engagement of performing, recording and film artists*.

❏ Income eligible for averaging

A recognized artist's income eligible for averaging for a given taxation year will be equal to the amount by which the part of the artist's income for the year that may reasonably be considered attributable to the artistic activities for which he is a recognized artist exceeds the aggregate of $50 000 and, where applicable, the amount of the deduction respecting copyright income to which he is entitled for the year.

❏ Eligible income-averaging annuity

• Person authorized to offer an eligible income-averaging annuity

An eligible income-averaging annuity must be acquired from a person licensed or otherwise authorized under the laws of Québec or Canada to carry on an annuities business or offer trustee services in Québec and who is authorized by the Minister of Revenue to offer eligible income-averaging annuities, hereinafter referred to as an "authorized person."

The Minister of Revenue may authorize a person to offer eligible income-averaging annuities where the following conditions are met:

- the person has previously submitted to the Minister of Revenue a standard income-averaging annuity contract that meets the requirements of an eligible income-averaging annuity contract;
- the person has undertaken with the Minister of Revenue to ensure that the eligible income-averaging annuity contracts to which the person will be party comply with the standard contract.

• Characteristics of an eligible income-averaging annuity

For an annuity to be considered an eligible income-averaging annuity, the agreement establishing the income-averaging annuity must meet the following requirements:

- the income-averaging annuity must be acquired through a single payment;
- the amounts provided for under the income-averaging annuity must be paid in equal annual or more frequent periodic payments of sufficient amount to ensure full payment of the annuity over no more than seven years from the date of the first payment;
- the first annuity payment must be made no later than ten months after the date of the single payment made to acquire the annuity;
- the individual must be entitled to request full or partial commutation of the annuity at any time;
- an income-averaging annuity payment may be made only to the individual or, if that individual dies, to his succession or designated beneficiary, as the case may be;
- except in the case of death, the interest of the annuitant in the contract may not be disposed of other than by the surrender or cancellation of the annuity by the authorized person;
- the interest of the individual in the contract may not be pledged or transferred as security by any manner;
- the contract must comply with the standard contract previously approved by the Minister of Revenue.

❑ Tax treatment of amounts received under an eligible income-averaging annuity

Amounts from an eligible income-averaging annuity will be considered as income and subject to a special tax.

The expression "amount from an eligible income-averaging annuity" means:

- a periodic amount received under an eligible income-averaging annuity contract;
- an amount received as payment for full or partial commutation of the eligible income-averaging annuity;
- an amount received as proceeds of disposition following the surrender or cancellation of the eligible income-averaging annuity by the authorized person party to the annuity contract.

• Special tax

A special tax applicable to any amount paid under an eligible income-averaging annuity contract will be introduced.

More specifically, a taxpayer who receives an amount from an eligible income-averaging annuity during a given taxation year must pay, for the year, income tax equal to 24% of the amount so received.

An authorized person who pays an amount from an eligible income-averaging annuity must withhold this special tax. That person must remit the amounts thus withheld to the Minister of Revenue, on behalf of the taxpayer required to pay the tax, no later than 30 days following the date of the payment under an eligible income-averaging annuity.

The authorized person must pay to the Minister of Revenue, on behalf of the taxpayer, any portion of the income tax payable by the taxpayer that was not withheld at source upon the payment of the amount from an eligible income-averaging annuity. However, the authorized person may recover from the taxpayer the amount of income tax thus paid.

Furthermore, an authorized person will be required to file an information return with the Minister of Revenue, on a prescribed form, regarding any payment made by the person under an eligible income-averaging annuity during a given calendar year. The information return must be filed no later than the last day of February each year regarding the preceding calendar year.

• Personal income tax

Taxpayers must include, in the calculation of their income for a given taxation year, any amount from an eligible income-averaging annuity received during that year.

However, to ensure that amounts from an eligible income-averaging annuity are not taxed twice, an individual who is resident in Québec at the end of a given taxation year will be entitled to a refundable tax credit equal to the amount withheld at source as the special tax respecting any amount from an eligible income-averaging annuity that the individual included in the calculation of his income for the year.

For the purposes of application of this tax credit, where an individual dies or ceases to reside in Canada during a given taxation year, the last day of his taxation year will be deemed to be the day of his death or the last day on which he resided in Canada, as the case may be.

☐ Clarification regarding borrowing costs

An individual will not be authorized to deduct, in the calculation of his income, borrowing costs, including interest, where the borrowing is used to acquire an eligible income-averaging annuity contract.

☐ Consequential amendments

Various consequential amendments will be made to the current tax legislation and regulations following implementation of the eligible income-averaging annuity measures. These amendments will essentially provide that:

- the interest of a person in an eligible income-averaging annuity contract is not covered by the rule providing for deemed disposition of the property of an individual who ceases to reside in Canada;
- an eligible income-averaging annuity contract is not covered by the rule requiring inclusion, in the calculation of income, of certain income, calculated in the prescribed manner, accumulated under annuity contracts;
- no amount may be deducted, in the calculation of income, as a return of capital regarding an amount from an eligible income-averaging annuity;
- an amount from an eligible income-averaging annuity does not give entitlement to the tax credit respecting retirement income;
- an amount from an eligible income-averaging annuity to which an individual was entitled, under an eligible income-averaging annuity contract, prior to his death and which is paid under such contract following the individual's death will be deemed to be an amount from an eligible income-averaging annuity;

— an amount deducted by the individual for the year, in the calculation of his income, for an amount paid to acquire an eligible income-averaging annuity may also be deducted in the calculation of total income subject to the contribution to the Health Services Fund, where such an amount is attributable to income included, for the year, in the calculation of income subject to the contribution.

❑ Application date

These measures will apply as of the 2004 taxation year.

1.9 Measures relating to donations and gifts

The current tax system authorizes several entities to issue tax receipts for donations or gifts they receive from individuals or corporations. These receipts allow donors to obtain tax benefits.

In the case of individuals, these tax benefits essentially take the form of a non-refundable tax credit calculated at a rate of 20% for the first $2 000 taken into consideration and a rate of 24% for the remainder. In the case of corporations, the tax benefits are mainly in the form of a deduction made in calculating their taxable income.

To give entitlement to the tax credit or the deduction, as the case may be, donations and gifts must be made to recognized entities. In some instances, entities are recognized simply because they are public or intergovernmental entities, as is the case particularly of the State, municipalities and the United Nations and its agencies. In other instances, recognition is granted on an individual basis, as in the case of charities, certain arts organizations and Canadian amateur athletic associations.

The tax credit or deduction for donations and gifts to which a taxpayer is entitled is calculated taking into account the eligible amount of each donation or gift he made, that is, the amount equal to the excess of the fair market value of the property donated over the amount of the advantage, where applicable, in respect of the donation or gift.

When donations or gifts made by a taxpayer qualify as gifts of cultural property or gifts of property with undeniable ecological value, the total of the eligible amounts of such gifts may be considered in calculating the tax credit or the deduction. In other cases, the total of the eligible amounts of the donations or gifts is limited, for the purpose of calculating the tax credit or the deduction, to a specific level of the taxpayer's income.

In short, the limit is set at 75% of the taxpayer's income for the year during which the donations or gifts were made, except if the taxpayer dies during that year, in which case the limit is raised, for the year of death and the preceding year, to 100% of his income. The limit of 75% may also be increased to 100% if the donation or gift is related to the donee's mission.

Any part of the amount of donations and gifts which, because of this limit, cannot be taken into account in calculating the tax credit or deduction may be carried forward over the five subsequent taxation years, or, if the taxpayer dies during the year in which the donation or gift was made, carried back to the preceding taxation year, subject to the application, for each of the years for which the portion is carried forward or back, of the rule limiting the total of the eligible amounts of donations and gifts to a specific level of the taxpayer's income.

Various measures will be introduced to further encourage gifts of certain property and provide additional support to particular entities by allowing them to receive donations and gifts giving entitlement to tax benefits.

1.9.1 Recognition of Québec amateur athletic associations

For many years, the government has supported the development of excellence in sports, particularly by authorizing certain Canadian amateur athletic associations to issue tax receipt for donations and gifts they receive. More recently, that is, in the Budget Speech of March 14, 2000, the government introduced a refundable tax credit for top-level athletes in order to contribute, more specifically, to the development of amateur sports in Québec and better assist athletes in their pursuit of excellence in sports.

To bolster support for the development of sports in Québec, a new category of organizations, devoted to promoting amateur sports in Québec, will be authorized to issue receipts for donations and gifts, bearing the mention that they are Québec income tax receipts.

This new category will include organizations that are registered as Québec amateur athletic associations with the Minister of Revenue.

❑ Registration conditions

The Minister of Revenue may register an organization as a Québec amateur athletic association at the request of the organization, if he is of the opinion that it meets the following conditions:

- it was constituted under a law of Canada or Québec;
- its management and oversight centre is located in Québec;
- it is a person that constitutes a club or an association established exclusively for non-profit purposes and does not constitute a charity;
- its primary purpose and its primary function are the promotion of amateur sports in Québec on a Québec-wide basis.

❑ Appeal of decisions handed down by the Minister of Revenue

If the Minister of Revenue refuses a registration application submitted to it by an organization, the latter will be able to appeal the decision to the Court of Québec according to rules similar to those that apply to refusals of applications submitted to the Minister of Revenue for registration as a Canadian amateur athletic association.

In this regard, the Minister of Revenue will be deemed to have refused an organization's registration application if he does not respond to the application within 180 days of its mailing.

❑ Calculation of the tax credit or deduction for donations and gifts

Donations and gifts to a Québec amateur athletic association whose registration is effective (hereinafter called a "registered Québec amateur athletic association") when the donations or gifts are made will give entitlement to the tax credit or deduction for donations and gifts, as the case may be.

In particular, the tax legislation will be amended to stipulate that, for the purpose of calculating the tax credit or deduction for donations and gifts, the eligible amount of donations and gifts made by a taxpayer during a given taxation year or one of the five preceding taxation years to registered Québec amateur athletic associations will have to be taken into account in calculating the total of the eligible amounts of the donations and gifts, other than gifts of cultural property and gifts of property with undeniable ecological value, made by the taxpayer for the year.

As a result of this change, donations and gifts to a registered Québec amateur athletic association will, notably, be subject to the rule aimed at limiting, to a specific level of the taxpayer's income, the total of the eligible amounts of donations and gifts, other than gifts of cultural property and gifts of property with undeniable ecological value, that may be taken into account in calculating the tax credit or deduction for donations and gifts.

For greater clarity, if a taxpayer donates a work of art—within the meaning given to this expression in the tax legislation—to a registered Québec amateur athletic association, the taxpayer will be deemed not to have donated the work of art, unless the donee disposes of it no later than December 31 of the fifth calendar year following that in which the donation or gift was made.

❑ Registers and records

In regard to keeping registers and records, registered Québec amateur athletic associations will be required to follow rules similar to those that apply to registered charities and prescribed Canadian amateur athletic associations.

Therefore, all registered Québec amateur athletic associations will have to keep a copy of each receipt—containing the information required by the tax legislation—that it issues.

In addition, they will have to keep registers containing information that can be used to verify donations and gifts giving entitlement to tax benefits and to determine if there are any reasons for revoking their registration.

❑ Information return

To allow the Minister of Revenue to ensure compliance with the conditions that give entitlement to registration, registered Québec amateur athletic associations will be required to file an information return for each of their fiscal years with the Minister of Revenue within six months of the end of the fiscal year.

❑ Revocation of registration

The Minister of Revenue will be able to revoke the registration of a registered Québec amateur athletic association if the association:

— makes a request to that effect;

— fails to comply with the conditions prescribed for maintaining its registration;

— neglects to file an information return within the prescribed time limit;

— issues a receipt for a donation or gift that does not meet the requirements of the tax legislation and regulations or contains false information;

— neglects to comply with the requirements regarding the keeping of registers and records or violates these requirements;

— accepts a donation or gift on the explicit or implicit condition that the association must make a donation or gift to another club, person or association.

However, before revoking the registration of an association, the Minister of Revenue must inform it of his intention by registered mail, unless the revocation is carried out at the request of the association.

If the Minister of Revenue informs a registered Québec amateur athletic association that he intends to revoke its registration, the association may appeal the decision to the Court of Québec according to rules similar to those that apply to notices of intention issued by the Minister of Revenue regarding the revocation of the registration of a Canadian amateur athletic association.

❑ Application date

This measure will apply to donations or gifts made to a registered Québec amateur athletic association after the day of this Budget Speech.

1.9.2 Recognition of the Agence de la Francophonie

The Agence de la Francophonie, also known as the Agence intergouvernementale de la Francophonie, is an international government organization that comprises some 50 states and governments, including Québec, spread over all five continents and using French to varying degrees.

Created in 1970, the Agence de la Francophonie is the lead operator in cultural, scientific, technical, economic and legal cooperation programs determined by the Francophone Summit. In this capacity, it conducts activities in many areas, including democracy promotion, and provides support, especially for the education and instruction policies of member states. In particular, it contributes to the development of the French language while fostering dialogue between cultures and civilizations.

The Agence de la Francophonie, whose head office is in Paris, has two subsidiary bodies. For over 15 years, Québec has played host to one of these subsidiary bodies, the Institut de l'énergie et de l'environnement (des pays) de la Francophonie (IEPF), whose head office is in Québec City.

Given the objectives pursued by the Agence de la Francophonie in the realms of sustainable development, economic cooperation and cultural diversity, its partnerships and sources of funding must be diversified.

To support this organization in its search for new sources of funding, the tax legislation will be amended to provide that the Agence de la Francophonie and its subsidiary bodies will constitute recognized donees for the purposes of the tax measures relating to donations and gifts. These entities will thus be able to issue receipts for donations and gifts, bearing the mention that the latter are Québec income tax receipts.

❑ Calculation of the tax credit or deduction for donations and gifts

Donations and gifts to the Agence de la Francophonie or one of its subsidiary bodies will give entitlement to the tax credit or deduction for donations and gifts, as the case may be.

In particular, the tax legislation will be amended to stipulate that, for the purpose of calculating the tax credit or deduction for donations and gifts, the eligible amount of donations and gifts made by a taxpayer, during a given taxation year or one of the five preceding taxation years, to the Agence de la Francophonie or one of its subsidiary bodies will have to be taken into account in calculating the total of the eligible amounts of the donations and gifts, other than gifts of cultural property and gifts of property with undeniable ecological value, made by the taxpayer for the year.

For greater clarity, donations and gifts to the Agence de la Francophonie or one of its subsidiary bodies will be subject, for the purpose of calculating the tax credit and deduction for donations and gifts, to the rule aimed at limiting, to a specific level of the donor's income, the total of the eligible amounts of donations and gifts, other than gifts of cultural property and gifts of property with undeniable ecological value.

In addition, the Agence de la Francophonie and its subsidiary bodies will constitute donees for the purposes of the rule pertaining to gifts of certain works of art. In particular, under this rule, taxpayers are not deemed to have donated a work of art—within the meaning given to this expression in the tax legislation—if the donee concerned did not dispose of the work of art by the end of the fifth calendar year following that in which the donation or gift was made, except if the work of art was acquired by the donee as part of its primary mission.

❑ Application date

This measure will apply to donations and gifts made to the Agence de la Francophonie or one of its subsidiary bodies after the day of this Budget Speech.

1.9.3 Gifts of capital property that has increased in value

Taxpayers who donate capital property that has increased in value may have to pay tax, for the taxation year in which the gift was made, in respect of the taxable capital gain and, where applicable, the recapture of depreciation realized at that time.

However, this tax may be fully offset by the tax credit or deduction for donations and gifts granted for the year in which the gift was made, if the gift qualifies as a gift of cultural property or a gift of property with undeniable ecological value. This stems from the fact that the amount of such gifts that may be taken into account in calculating the tax credit or the deduction is not subject to the limit established on the basis of the donor's income for the year, which is normally set at 75% of such income.

However, in the case of other types of gifts, this limit prevents the above-mentioned tax from being fully offset for the year in which the gift was made except if the capital property that was donated is a property related to the donee's mission, i.e. a property that was acquired by the donee as part of its primary mission and that the latter can use without having to sell it.

In such cases, the limit of 75% in respect of the donor's income for the year may be increased by an amount corresponding, in short, to 25% of the total taxable capital gain and recapture of depreciation realized by the donor when the gift was made. As a result of this increase, the tax payable in this regard for the year in which the gift was made may be fully offset by the tax credit or deduction for donations and gifts granted for that year.

To make it easier to donate capital property that has increased in value, particularly to registered charities, the tax legislation will be amended to eliminate, for all taxation years beginning after December 31, 2003, the requirement that the donated property must be related to the donee's mission in order for the 25% increase in the limit established on the basis of the donor's income to apply.

1.10 Change to the tax treatment of certain reimbursements of salaries and wages or wage loss insurance

Since 1998, the tax treatment of certain reimbursements of salaries and wages or wage loss insurance has differed depending on whether the amount concerned is reimbursed in the same year as that in which the salaries and wages or wage loss insurance are received or in a year subsequent to the year of their reception.

Under the tax legislation, an individual may deduct, in calculating his income from an office or employment, an amount he pays or that is paid for him in a given year in accordance with an agreement, other than an excluded agreement,[31] under which he must reimburse any amount he was paid for a period throughout which he did not perform the duties related to his office or employment, hereinafter called a "reimbursement agreement", insofar as he included the amount reimbursed in the computation of the income he earned from an office or employment for the year.

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[31] Namely, an agreement under which an individual makes a commitment to reimburse an amount that his employer or former employer paid to him in lieu of amounts that he would have received from an insurer, under a disability insurance plan, had the insurer not been insolvent.

A reimbursement agreement may be concluded, in particular, to provide that an employee will have to reimburse salaries or wages he received during leave paid by means of salary advances if the employee does not return to his employment at the end of the leave. Similarly, an employee who has been the victim of an accident may be required, under such an agreement, to reimburse the wage loss insurance benefits he was paid by his employer if he obtains an income replacement indemnity under another insurance plan.

In addition, the reimbursement by an individual or on his behalf in accordance with a reimbursement agreement of an amount that was included in calculating his income from an office or employment for a previous year gives entitlement to a tax credit respecting the reimbursement of employment income. In short, this refundable tax credit corresponds to the additional income tax that the individual had to pay because of the inclusion of the amount reimbursed, in the computation of his income from an office or employment for each of the taxation years concerned.

❏ Broadening of the deduction for reimbursement of salaries and wages

Since the reimbursement, in a given year, of an amount included in calculating income from an office or employment for a previous year does not give entitlement to a deduction in the computation of income for the year but gives entitlement to a tax credit, it does not reduce the family income used, in particular, to determine the amount of the various tax credits that may be reduced on the basis of income and various socio-fiscal measures. Therefore, government assistance granted to low or middle-income households, may be reduced, or even offset, for individuals required to make such reimbursements.

To remedy this situation, the tax legislation will be amended so that the deduction for reimbursement of an amount included in calculating income from an office or employment also applies to the reimbursement, under a reimbursement agreement, of an amount that was included in the computation of income from an office or employment for a previous taxation year.

As a result of this change, the tax credit respecting the reimbursement of employment income will be abolished.

❑ Possibility of carrying back a loss attributable to the reimbursement of salaries and wages beyond the third preceding year

Deducting an amount relating to a previous taxation year, in the computation of income from an office or employment for a given taxation year, may lead to a non-capital loss when the amount of the reimbursement exceeds the income for the year. As a rule, such losses may be carried forward or back to another year in accordance with the mechanism for the carry-forward or carry-back of losses. In short, this mechanism makes it possible to carry a non-capital loss, incurred in a year, back three taxation years or forward ten taxation years.[32]

However, taxpayers are sometimes unable to enjoy the benefits of this mechanism for carrying losses forward or back if their taxable income is insufficient for the years contemplated by the mechanism. This may be the case of individuals who suffer from a permanent disability because of an accident and whose income, after they ceased their employment, consists solely of non-taxable income replacement indemnities.

To prevent such individuals from being penalized, the tax legislation will be amended to grant the Minister of Revenue the discretionary authority to extend the carry-back period for a non-capital loss to beyond three years.

In particular, the tax legislation will be amended so that the Minister of Revenue may, at the request of an individual, authorize an amount relating to a non-capital loss to be carried back to a previous year for which the amount reimbursed was included in calculating the individual's income from an office or employment when the following conditions are met:

— the amount relating to the non-capital loss for which the taxpayer requests permission to carry back the amount to a preceding year does not exceed the portion of the loss that may reasonably be considered attributable to the reimbursement of an amount that was included in the calculation of his income from an office or employment for that preceding year;

— the Minister of Revenue is of the opinion that it is not very likely that the individual, because of the nature and severity of his disability, will earn sufficient income during the carry-forward period to carry forward a non-capital loss.

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[32] The carry-forward period of seven years will be increased to ten years for losses incurred during a taxation year ending after March 22, 2004. See subsection 5.1.1.

❑ Application date

These changes will apply to the reimbursement of amounts under reimbursement agreements after December 31, 2003. However, individuals may choose to have the changes apply to the reimbursement of an amount under such an agreement after December 31, 1997 and before January 1, 2004. They must make this choice no later than the filing deadline for their tax return for the 2004 taxation year.

1.11 Reducing unfairness related to the reception of certain income replacement indemnities

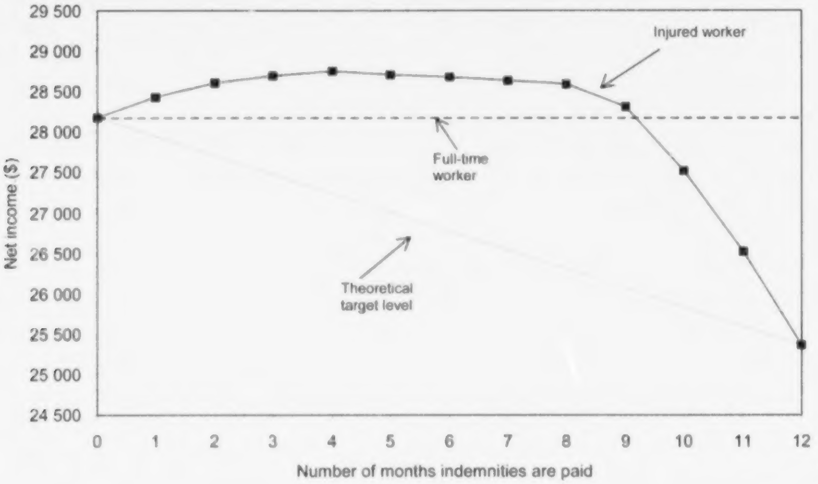
Under the current tax system, certain income replacement indemnities are not taxable. Among such indemnities are the income replacement indemnities paid by the Commission de la santé et de la sécurité du travail following an industrial accident or an occupational disease and the income replacement indemnities paid by the Société de l'assurance automobile du Québec following an accident caused by an automobile.

This special tax treatment stems from the fact that the level of such indemnities is set at a percentage—generally 90%—of beneficiaries' net income, which is calculated by subtracting, from their annual gross employment income, amounts corresponding to the estimated amount of federal and provincial income tax they have to pay for the year, contributions to the Québec Pension Plan and employment insurance premiums.

As shown in the following graph, the method used to determine income replacement indemnities, coupled with the tax treatment of taxable incomes, can sometimes increase the disposable income of persons who benefit from such indemnities to a higher level than that of a full-time worker.

GRAPH 1.1

EXAMPLE OF A PERSON L!VING ALONE WHO EARNS AN EMPLOYMENT INCOME OF $40 000 A YEAR
(2004 taxation year)



The increase in the disposable income of an injured worker stems essentially from the fact that personal tax credits and basic compulsory employee contributions are taken into account both in the method used to determine the worker's indemnity and in the calculation of the amount of tax he has to pay in respect of his other income.

In addition to generating unfairness, such increases in disposable income do not help to encourage persons who are receiving income replacement indemnities to re-enter the labour force as soon as possible. Therefore, the tax legislation will be amended to reduce such unfairness.

❑ Measure aimed at reducing unfairness

• 2004 taxation year

An individual who is resident in Québec at the end of the 2004 taxation year and who received an indemnity concerned during that year will have to include, in calculating the amount of tax he has to pay for the year, an amount equal to the lesser of the amounts obtained using the following formulas:

$A \times 0.16\ B \times C$ and $A \times \$1\,840 \times C$

For the purpose of the application of these formulas:

- "A" represents the percentage[33] that was applied to the individual's net income to determine the indemnity concerned;
- "B" represents the gross income that was used to determine the indemnity concerned for the individual;
- "C" represents the ratio, which may not exceed 1, between the number of days for which the indemnity concerned was paid or determined, as the case may be, and the number of days in the year.

• 2005 and subsequent taxation years

As of the 2005 taxation year, an individual who is resident in Québec at the end of a given taxation year and who received an indemnity concerned during the year, will have to make an adjustment to the basic amount granted for the purpose of calculating the basic personal tax credit for the year.[34]

The following work chart shows the steps in calculating the adjustment to the basic amount.

Adjustment to the basic amount

Amount of recognized essential needs						1	**6 275 00**[1]
QPP contributions			2				
Employment insurance premiums		+	3				
Contribution to the Health Services Fund		+	4				
Total of lines 2 to 4.	***Total contributions and premiums***	=	5				
Complementary amount: $2 925[1] or the amount from line 5, whichever is higher.					+	6	
Total of lines 1 and 6.	**Basic amount**				=	7	
Adjustment to an income replacement indemnity					-	8	
Line 7 minus line 8.	**Adjusted basic amount**				=	9	

1 This amount will be indexed automatically as of January 1, 2005.

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[33] For income replacement indemnities granted under Québec's tax legislation, the percentage is currently 90%.

[34] As of 2005, following the simplification of the personal income tax system, a complementary amount will be added to the amount of recognized essential needs to form the basic amount that will be granted for the purpose of calculating the basic personal tax credit. This measure is described in subsection 1.4.

The adjustment an individual will have to make for a given taxation year will be equal to the lesser of the amounts obtained using the following formulas:

$A \times B/C \times D \times E$ and $A \times (F + G) \times E$

For the purposes of the application of these formulas:

— "A" represents the percentage[35] that was applied to the individual's net income to determine the indemnity concerned;

— "B" represents the rate applicable, for the year, to the first taxable income bracket in the tax table—currently, 16%;

— "C" represents the rate applicable, for the year, to the conversion of the amounts of recognized essential needs into personal tax credits—currently, 20 %;

— "D" represents the gross income that was used to determine the indemnity concerned for the individual;

— "E" represents the ratio, which may not exceed 1, between the number of days for which the indemnity concerned was paid or determined, as the case may be, and the number of days in the year;

— "F" represents the amount of recognized essential needs for the year used for the purpose of calculating the basic personal tax credit;

— "G" represents the minimum amount that is used to determine the complementary amount[36] for the year used for the purpose of calculating the basic personal tax credit.

- **Application rule**

For the purposes of these measures, if an individual dies or ceases to reside in Canada during a given taxation year, the last day of his taxation year will be deemed to be either the day of his death or the last day on which he resided in Canada, as the case may be.

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[35] *Supra*, Note 33.

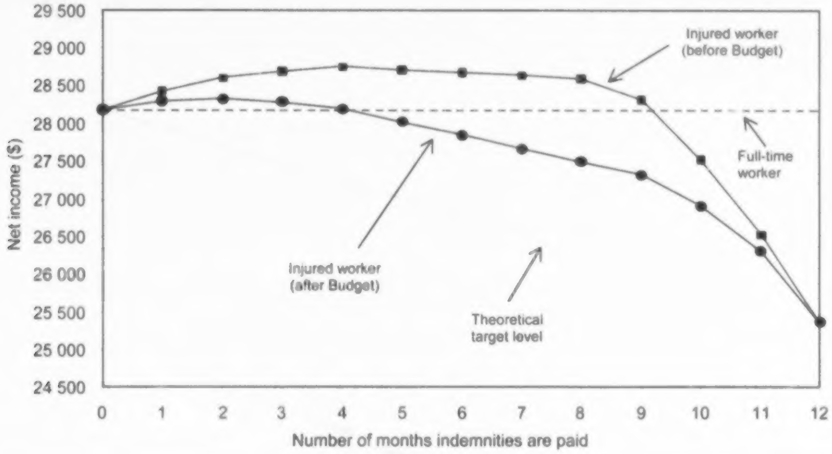
[36] *Supra*, Note 34.

- **Graph illustrating the reduction in unfairness**

As shown in the following graph, the adjustments made within the framework of the computation of income tax payable in Québec by a person who receives an income replacement indemnity will help to reduce unfairness.

GRAPH 1.2

EXAMPLE OF A PERSON LIVING ALONE WHO EARNS AN EMPLOYMENT INCOME OF $40 000 A YEAR
(2004 taxation year)



❑ Indemnities concerned

For the purposes of the measures aimed at reducing unfairness stemming from the reception of certain income replacement indemnities, the expression "indemnity concerned" will mean income replacement indemnities paid or determined under the following acts:

— the *Act respecting industrial accidents and occupational diseases*, the *Workers' Compensation Act*, the *Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries*, or a similar law of Canada or another province respecting industrial accidents, in the wake of injury, disability or death;

— the *Act respecting occupational health and safety*;

— the *Automobile Insurance Act* or a similar law of another province;

— the *Crime Victims Compensation Act* or a similar law of another province;

— the *Act to promote good citizenship.*

☐ Application details

• Taxpayers who go bankrupt during the year

Under the tax legislation, an individual who goes bankrupt during a calendar year is deemed to have two taxation years during that calendar year: one covering the period from January 1 to the day before the bankruptcy (pre-bankruptcy); the second covering the period from the day of the bankruptcy to December 31 (post-bankruptcy).

For each of these pre-bankruptcy and post-bankruptcy taxation years, the amount of recognized essential needs[37] and the minimum amount[38] used to calculate the complementary amount will correspond respectively to the portion of that amount represented by the ratio between the number of days in the taxation year concerned and the number of days in the calendar year.[39]

• Taxpayers who reside in Canada for part of the year

When a taxpayer resides in Canada for only part of a given taxation year, the number of days of the taxpayer's taxation year that must be used to determine the ratio between the number of days for which an income replacement indemnity has been paid or determined, as the case may be, and the number of days in the year[40] will be deemed to be equal to the number of days included in any period of the year throughout which the taxpayer resided in Canada.

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[37] Corresponds to "F" in the formula used to determine the amount that must be deducted from the basic amount granted for the purpose of calculating the basic personal tax credit.

[38] Corresponds to "G" in the formula used to determine the amount that must be deducted from the basic amount granted for the purpose of calculating the basic personal tax credit.

[39] For the 2004 taxation year, the breakdown will apply to the amount of $1 840 used in the second formula.

[40] Corresponds to "C" in the formula used, for the 2004 taxation year, to determine the amount to be included in calculating the amount of tax payable, and, as of the 2005 taxation year, to "E" in the formula used to determine the amount that must be deducted from the basic amount granted for the purpose of calculating the basic personal tax credit.

In addition, for taxation years subsequent to 2004, the amount of recognized essential needs[41] and the minimum amount[42] used for the purpose of calculating the complementary amount will correspond respectively to the portion of that amount represented by the ratio between the number of days included in any period of the year throughout which the taxpayer resided in Canada and the number of days in the calendar year.[43]

☐ Information return

The Commission de la santé et de la sécurité du travail and the Société de l'assurance automobile du Québec will have to indicate on the information return they are required to file, using the prescribed form, in regard to an indemnity concerned they pay or determine in a given calendar year, the amount of gross income on the basis of which the indemnity was determined and the number of days for which the indemnity was paid or determined, as the case may be.

☐ Application date

These measures will apply as of the 2004 taxation year.

1.12 Further reduction of the amount of the deduction for securities options

Generally speaking, an employee who disposes of or transfers rights under an option to purchase securities of a corporation or a mutual fund trust granted to him by his employer, or who otherwise alienates these rights, is deemed to receive, because of his office or employment, a benefit equal to the difference between the proceeds of the alienation of these rights and the amount paid to acquire them. The value of this benefit must be included in the calculation of the employee's income for the taxation year during which the disposition or transfer of such rights occurs.

An employee who acquires securities under such an option is also deemed to receive, because of his office or employment, a benefit equal to the difference between the value of the securities at the time of their acquisition and the amount paid or to be paid to acquire such securities as well as the associated options.

When a Canadian-controlled private corporation (CCPC) grants a stock option to an employee, the value of this benefit must be included in the calculation of the employee's income for the taxation year during which the shares were alienated.

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[41] *Supra*, Note 37.

[42] *Supra*, Note 38.

[43] *Supra*, Note 39.

In other instances, the value of the benefit must be included in the calculation of the employee's income for the taxation year during which the securities were acquired. However, under certain conditions, an employee can defer taxation of the value of the benefit resulting from the exercise of the option to the taxation year during which the securities are alienated or exchanged, up to a single annual limit of $100 000 based on the fair market value of the securities, other than the shares of a CCPC, at the time of the granting of the options.

In addition, when an employee is required to include in the calculation of his income for a given taxation year, the value of a benefit he is deemed to have received regarding an option to purchase securities granted by his employer, such employee may, provided certain conditions are satisfied, benefit from a deduction in the computation of his taxable income for the year. This deduction is calculated on the basis of a certain fraction of the value of the benefit deemed to have been received.

In the wake of the Budget Speech of June 12, 2003, the amount of this deduction was reduced from one half to ⅜ of the value of the benefit deemed to have been received. This reduction was prompted by the search for greater equity among the different forms of remuneration granted to employees.

For the same reason, the amount of this deduction will be further reduced by 33 ⅓%, from ⅜ to one quarter of the value of the benefit deemed to have been received.

This additional reduction will apply in regard to any event, operation or circumstance relating to an option to purchase securities that takes place after the day of this Budget Speech and as a result of which an individual must include, in calculating his income from an office or employment for a given taxation year, the value of a benefit he is deemed to have received in such year.

2. MEASURES CONCERNING BUSINESSES

2.1 Deduction in the calculation of paid-up capital raised to $1 million

A corporation that has an establishment in Québec at any time in a taxation year is subject to the tax on capital, calculated on the basis of the paid-up capital shown in its financial statements for the year, prepared in accordance with generally accepted accounting principles.

The rate of the tax on capital applicable to paid-up capital and the method of calculating the latter depend on whether the corporation is a financial institution or a corporation that is not a financial institution.

In general, the paid-up capital of a corporation that is not a financial institution is obtained by adding most of the amounts shown in the "shareholders' equity" and "long-term liabilities" sections of the balance sheet. To avoid double taxation, paid-up capital is reduced regarding investments made in other corporations, and a deduction is allowed for certain items. Lastly, a tax rate of 0.6% is applied to such paid-up capital.

The tax on capital applicable to financial institutions is calculated on a different basis than that of other corporations. This distinction is essentially attributable to the fact that it would not be appropriate to tax some liabilities of financial institutions, chiefly deposits. Furthermore, a tax rate of 1.2% is applied to their paid-up capital.

Lastly, corporations can generally claim a deduction in calculating their paid-up capital. This deduction has applied since January 1, 2003 and could reach $250 000 in 2003. The maximum amount of this deduction was raised to $600 000 in the June 12, 2003 Budget Speech for calendar year 2004. However, a financial institution or a corporation exempt from income tax but subject to payment of the tax on capital, for a taxation year, may not claim such deduction, for such taxation year.

❑ Applicable maximum deduction raised

SMEs will enjoy a reduction in the tax on capital. The deduction of $600 000 in the calculation of paid-up capital will be raised to $1 million for 2005 and subsequent calendar years, according to the tems and conditions described below.

❑ Reduction of the maximum deduction depending on size

The maximum deduction is designed to reduce the tax on capital of SMEs. Accordingly, so that this deduction applies to this type of corporations, the maximum deduction a corporation may claim is reduced linearly.

Briefly, this reduction of the maximum deduction, for a given taxation year, is one dollar for each three dollars by which the paid-up capital of a corporation determined for the preceding taxation year exceeds the maximum deduction such corporation could otherwise claim for the given taxation year. Accordingly, the maximum deduction is partially reduced if such paid-up capital is between the amount of such maximum deduction and four times the amount of such maximum deduction.

This reduction of the deduction depending on size will be maintained. Accordingly, a partial reduction of the maximum deduction will apply to 2005 and subsequent calendar years, when paid-up capital is between $1 million and $4 million.

For instance, a corporation with paid-up capital of $2 million for its taxation year ended December 31, 2004 and paid-up capital, before the deduction, of $2 700 000 for its taxation year ended December 31, 2005 must, for its taxation year ended December 31, 2005, reduce the maximum deduction it otherwise may claim for taxation year 2005 by 33.33%.[44] Accordingly, the deduction such corporation may claim for such taxation year 2005 would be $666 667, i.e. $1 million reduced by 33.33%. In this same example, the deduction such corporation may claim for its taxation year 2006 would be $655 556, i.e. $1 million reduced by 34.44%.[45]

For greater clarity, the special calculation details stipulated for a taxation year of a corporation that straddles two calendar years will continue to apply.

❑ Other application details

The other application details of this fiscal measure will not be changed by this increase in the maximum deduction. For instance, members of a group of associated corporations must, according to the currently applicable terms and conditions, divide the deduction in the calculation of paid-up capital of a corporation of up to $1 million among themselves.

2.2 Measures concerning the regions

2.2.1 Improvement and greater accessibility to various refundable tax credits granted in certain regions

In recent years, three refundable tax credits were put in place to encourage job creation in the resource regions of Québec, namely the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for the Vallée de l'aluminium.

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[44] ($2 000 000 - $1 000 000)/($4 000 000 - $1 000 000) = 33.33%.

[45] (($2 700 000 - $666 667) - $1 000 000)/($4 000 000 - $1 000 000) = 34.44%.

Briefly, these tax credits, whose rate is 30%, are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in a target region, for five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities in particular target the manufacturing and processing sectors. However, to receive this tax credit, an eligible corporation must begin carrying on a certified business in one of these regions no later than during calendar year 2004.

The June 12, 2003 Budget Speech introduced a change to the notion of certified business to remove activities involving the manufacturing of specialized equipment for the purposes of the three tax credits. On December 12, 2003 a further clarification was made to this notion to indicate that the activities relating to the manufacturing of finished products do not include the manufacturing of specialized equipment not covered by the tightening measures of June 12, 2003.[46]

More specifically, it was mentioned at that time that an eligible corporation for which a certificate had been issued in relation to such activities would no longer receive a tax credit as of calendar year 2004.

Representations made during the prebudget consultations showed the need to stimulate economic development in the resource regions. In addition, the current employment situation in the maritime regions suggests more targeted actions to encourage the emergence of promising sectors such as marine biotechnology and mariculture.

Some stakeholders also pointed out that the tightening measures of June 12 and December 12, 2003 could lead to financial difficulties for corporations that submitted bids or negotiated contracts, by including the impact of the stipulated period of five years. In addition, it was mentioned that these tightening measures would be relatively complex to administrer for corporations that make both specialized and non-specialized equipment.

Lastly, it was pointed out that the territorial exclusivity granted to certain regions regarding specialized equipment manufacturing activities could lead to undesirable inter-regional competition.

Accordingly, to establish an environment conducive to job creation and to encourage economic diversification in resource regions, the period of eligibility for the three tax credits will be extended for three years.

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[46] Bulletin d'information 2003-7.

In addition, the rate of the refundable tax credit for Gaspésie and certain maritime regions of Québec will be raised to 40%, in view of the current employment situation in those regions. Moreover, two adjustments will be made to the application details of this tax credit to further support the development of the marine biotechnology and mariculture sectors.

Accordingly, an eligible corporation operating in these sectors may request the revocation of its eligibility certificate and obtain a new eligibility certificate regarding a calendar year after calendar year 2003. In addition, the increase in payroll of such a corporation will be determined without referring to the payroll of its reference calendar year, which should contribute to accelerating the development of these sectors.

Furthermore, to mitigate the negative impacts of the tightening measures of June 12 and December 12, 2003, the notion of certified business will be simplified for the purposes of the refundable tax credit for processing activities in the resource regions. The activities covered by these tightening measures will accordingly be included in this tax credit, thus extending the territorial reach of these activities and consequently reducing inter-regional competition. A clarification will also be made to the notion of certified business, for the purposes of the refundable tax credit for the Vallée de l'aluminium.

Lastly, an adjustment will be made to the application details of the three tax credits to clarify the period of time within which activities must resume in the case where a corporation must suspend its activities as a result of a major unforeseen event.

❑ Refundable tax credit for processing activities in the resource regions

Briefly, the refundable tax credit for processing activities in the resource regions is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in a resource region of Québec, for five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate is issued by Investissement Québec and whose activities concern in particular the secondary or tertiary processing of wood, metals or non-metallic minerals.

The June 12, 2003 Budget Speech changed the notion of certified business to exclude a business whose activities are:

— the manufacturing of specialized equipment intended for logging or wood processing;

— the manufacturing of specialized equipment intended for manufacturing of paper or cardboard;

— the manufacturing of specialized equipment intended for mining development or metal processing;

— the manufacturing of specialized equipment intended for energy production or the use of energy;

— the manufacturing of specialized equipment for freshwater aquaculture.

In addition, on December 12, 2003,[47] the notion of certified business was clarified to indicate that the manufacturing of finished products henceforth would not include any manufacturing of specialized equipment, regardless of the sector or the application for which such equipment is intended. Similarly, installation activities and commercialization activities incidental to these activities were also excluded from the notion of certified business.

More specifically, it was also indicated that an eligible corporation for which a certificate had been issued in relation to such activities would no longer receive the tax credit as of calendar year 2004.

Further to these tightening measures, the notion of certified business, for the purposes of the tax credit, includes in particular the manufacturing of finished or semi-finished products from metal, wood, paper or cardboard or non-metallic minerals.

- **Extension of the period of eligibility for the tax credit**

To receive this tax credit, an eligible corporation must, according to the current terms and conditions, begin carrying on a business no later than calendar year 2004.

To further stimulate the development and expansion of businesses, the period of eligibility for the tax credit will be extended for three years. Accordingly, to receive the refundable tax credit for processing activities in the resource regions, an eligible corporation must begin carrying on a certified business in an eligible region no later than during calendar year 2007.

However, for greater clarity, this extension will not extend the period of five calendar years during which a given corporation can receive this refundable tax credit.

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[47] Ibid.

- **Broadening of the notion of certified business**

The tightening measures of June 12, 2003 were designed essentially to reduce inter-regional competition arising from the territorial exclusivity granted to certain regions regarding specialized equipment manufacturing activities.

As mentioned above, these tightening measures could lead to financial difficulties for the eligible corporations in question that had included the impact of the tax credit for the stipulated period of five years.

Accordingly, first, to enable the corporations covered by the tightening measures to receive the stipulated support and to encourage economic diversification in the resource regions, while reducing inter-regional competition, the notion of certified business will be broadened, as of calendar year 2004, to include essentially the activities covered by the tightening measures of June 12 and December 12, 2003.

More specifically, the notion of certified business will be changed to indicate that the manufacturing of finished products will henceforth include equipment, whether specialized or not, and regardless of which sector or which application such equipment is intended for, provided such equipment constitutes finished or semi-finished products made from any of the materials covered by this notion i.e., in particular, metals and non-metallic minerals.

For instance, the manufacturing of equipment from a synthetic material will not constitute the activity of a certified business because synthetic materials are not covered by the notion of finished products.

This broadening will extend the territorial scope of eligible activities to all the resource regions. Accordingly, in addition to the activities mentioned above, the manufacturing of specialized equipment intended for the production of wind power, the manufacturing of specialized equipment for mariculture and the manufacturing of specialized equipment intended for aluminum production or processing companies may constitute activities of a certified business, when such equipment is made, in particular, from metals.

However, the other activities currently covered by the refundable tax credit for the Vallée de l'aluminium and by the refundable tax credit for Gaspésie and certain maritime regions of Québec, may not be recognized as activities of a certified business for the purposes of the refundable tax credit for processing activities in resource regions.

For instance, the manufacturing of finished products from aluminum that has already undergone primary processing, such as auto parts, will not constitute the activity of a certified business for the purposes of the refundable tax credit for processing activities in resource regions, because this is an activity specifically covered by the refundable tax credit for the Vallée de l'aluminium. Similarly, the manufacturing of wind generators or the manufacturing of finished products in the marine biotechnology field will not constitute the activity of a certified business for the purposes of the refundable tax credit for processing activities in resource regions because they are activities specifically covered by the refundable tax credit for Gaspésie and certain maritime regions of Québec.

Furthermore, an eligible corporation for which an eligibility certificate was issued before June 12, 2003 regarding an activity that, in spite of this broadening measure, no longer constitutes an activity of a certified business, may continue to receive the tax credit according to the terms and conditions already stipulated.

- **Adjustment relating to major unforeseen events**

According to existing terms and conditions, an eligible corporation may request, following a major unforeseen event causing the suspension of its activities, the cancellation of an eligibility certificate issued for a given calendar year. Upon the resumption of its activities, such a corporation may apply for an eligibility certificate regarding a subsequent calendar year if it otherwise satisfies the other eligibility conditions.

This adjustment, which is designed to mitigate the impact of a major unforeseen event and encourage the resumption of activities, enables a corporation to take advantage of the tax credit during the stipulated five calendar years, even if it has to interrupt its activities for a certain period.

For example, during calendar year 2006, a corporation ceases to carry on its business following a fire. In the course of the same year, the corporation obtains the cancellation of the eligibility certificate issued for calendar year 2004. This cancellation will become effective in calendar year 2006. If the corporation obtains an eligibility certificate for calendar year 2007, i.e. when it resumes activities, the remaining eligibility period will then be three consecutive calendar years, because the corporation had received a tax credit for calendar years 2004 and 2005.[48]

An eligible corporation that, following a major unforeseen event, must suspend its activities, may not be in a position to benefit from the adjustment relating to the eligibility certificate if, for instance, it does not resume its activities until calendar year 2008, because it will not have begun carrying on a certified business no later than during calendar year 2007.

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[48] For greater clarity, the reference calendar year will correspond to the calendar year preceding the one in which Investissement Québec issues the new eligibility certificate.

Accordingly, to give full effect to this adjustment, a clarification will be made to stipulate that a corporation may, following a major unforeseen event, take advantage of the adjustment relating to the eligibility certificate even though it did not begin to carry on a certified business before the end of calendar year 2007. However, in this case, the corporation must resume its activities no later than the end of the second calendar year following the one in which it had to cease such activities.

❑ Refundable tax credit for Gaspésie and certain maritime regions of Québec

Briefly, the refundable tax credit for Gaspésie and certain maritime regions of Québec, whose rate is 30%, is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the administrative regions of Gaspésie–Îles-de-la-Madeleine, Côte-Nord, Bas-Saint-Laurent[49] and the Matane RCM, for five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate is issued by Investissement Québec and whose activities are carried out in the development of marine or wind-power resources sectors.

To determine its refundable tax credit for a given calendar year, an eligible corporation must compare the payroll for such given calendar year with that of its reference calendar year. This reference calendar year corresponds to the calendar year preceding the one during which the corporation began to carry on a certified business. Accordingly, a corporation that obtained an eligibility certificate with respect to calendar year 2003 will determine the increase in its payroll compared with reference calendar year 2002.

The June 12, 2003 Budget Speech introduced a change to the notion of certified business to exclude a business whose activities are the manufacturing of specialized equipment intended for the production of wind power or the manufacturing of specialized equipment for mariculture. Similarly, installation activities and commercialization activities incidental to these activities were excluded from the notion of certified business.

More specifically, it was then mentioned that an eligible corporation for which a certificate had been issued in relation to such activities would no longer receive the tax credit as of calendar year 2004.

As mentioned above, the current employment situation in the maritime regions is worrisome. In addition, corporations operating in the marine biotechnology and mariculture sectors cannot take full advantage of the tax assistance because they are still in the start-up phase.

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[49] The Bas-Saint-Laurent region is eligible only regarding activities carried out in the marine biotechnology sector.

- **Rate of the tax credit raised**

The tax legislation will be amended to raise the rate of the refundable tax credit for Gaspésie and certain maritime regions of Québec to 40% as of calendar year 2004.

- **Correlative changes to the refundable tax credit for processing activities in the resource regions**

Like the changes made to the refundable tax credit for processing activities in the resource regions, the extension to December 31, 2007 of the period of eligibility for the tax credit and the clarification made to the adjustment regarding major unforeseen events will also be applied, according to the same rules as those indicated in the case of the refundable tax credit for processing activities in the resource regions.

Furthermore, as indicated above, the notion of certified business, for the purposes of the refundable tax credit for processing activities in the resource regions, will be broadened as of calendar year 2004, to incorporate essentially the manufacturing of specialized equipment intended for the production of wind power and the manufacturing of specialized equipment for mariculture.

Consequently, an eligible corporation for which an eligibility certificate for the refundable tax credit for Gaspésie and certain maritime regions of Québec was issued in relation to these activities, prior to calendar year 2004, may continue to receive a tax credit, for the stipulated period of five years. However, as of calendar year 2004, the corporation will have to apply for an eligibility certificate regarding the refundable tax credit for processing activities in the resource regions and the expiration of such eligibility certificate will be set from the reference calendar year of the first certificate previously issued to the eligible corporation.

These changes will apply as of calendar year 2004.

- **Special cases of marine biotechnology and mariculture**

To allow the emerging sectors of marine biotechnology and mariculture to reach their full economic potential, two adjustments will be made to the existing terms and conditions of the refundable tax credit for Gaspésie and certain maritime regions of Québec.

- **Adjustment to the eligibility certificate**

Investissement Québec may, at the request of an eligible corporation, cancel the eligibility certificate issued to such corporation regarding calendar years 2000 to 2003 inclusive. However, such cancellation will only become effective as of calendar year 2004. Such an eligible corporation may, at a later date, apply for an eligibility certificate regarding a subsequent calendar year if it otherwise satisfies the other eligibility conditions,[50] and thus receive the refundable tax credit for five consecutive calendar years, as of such subsequent calendar year.

For greater clarity, the cancellation of an eligibility certificate may be requested only for a certificate issued regarding mariculture activities or activities relating to the manufacturing and processing of finished or semi-finished products in the marine biotechnology field.

Lastly, the changes made in the June 12, 2003 Budget Speech concerning the terms and conditions for issuing eligibility certificates will not apply regarding a certified business covered by this adjustment. Accordingly, if an eligible corporation holds more than one eligibility certificate, for the purposes of one or more of the three refundable tax credits granted in certain regions, it may consider a different reference calendar year for the purposes of the refundable tax credit for Gaspésie and certain maritime regions of Québec, in relation to the mariculture or marine biotechnology business.

- **Adjustment regarding payroll for the reference calendar year**

Briefly, an eligible corporation currently may, regarding a calendar year, claim the refundable tax credit based on the increase in payroll attributable to its eligible employees, according to the following formula:

$$\text{Amount of the tax credit} = \text{Rate of tax credit} \times (A - B)$$

where:

— the letter A represents the total wages paid by the corporation to its eligible employees for the calendar year;

— the letter B represents the total wages paid by the corporation to its eligible employees for its reference calendar year.

When the reference calendar year of an eligible corporation is later than calendar year 2002, item B of the formula is deemed to be equal to zero. The refundable tax credit will thus be determined on the total wages paid by the corporation to its eligible employees for the calendar year, for the five consecutive calendar years following its reference calendar year.

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[50] However, in this case, the criterion regarding the creation of a minimum of three full-time jobs will not be applied.

For instance, a corporation that obtained an eligibility certificate regarding calendar year 2004 will determine the increase in its payroll for calendar years 2004 to 2008 inclusive by using all the wages it paid to its eligible employees for each of these calendar years.

Furthermore, the changes made in the June 12, 2003 Budget Speech concerning the details of determining these tax credits will not apply regarding a certified business covered by this adjustment. Accordingly, if an eligible corporation carries on more than one certified business for which eligibility certificates have been issued, one of which is covered by this adjustment, the latter certified business shall constitute a separate business for the purposes of the tax credit.

Lastly, for greater clarity, the adjustment relating to payroll of the reference calendar year will not apply to a corporation holding an eligibility certificate regarding the other activities covered by the tax credit, i.e. the manufacturing of wind generators, the production of wind power or the processing of sea products

❑ Refundable tax credit for the Vallée de l'aluminium

Briefly, the refundable tax credit for the Vallée de l'aluminium is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the Saguenay–Lac-Saint-Jean administrative region, for five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec and whose activities consist, in particular, in making finished or semi-finished products from aluminum that has undergone primary processing.

The June 12, 2003 Budget Speech introduced a change to the notion of certified business to exclude a business whose activities are the manufacturing of specialized equipment for aluminum production or aluminum processing businesses. Similarly, installation activities and commercialization activities incidental to these activities were excluded from the notion of certified business.

More specifically, it was then mentioned that an eligible corporation for which a certificate had been issued in relation to such activities would no longer receive the tax credit as of calendar year 2004.

Like the changes made to the refundable tax credit for processing activities in the resource regions and the refundable tax credit for Gaspésie and certain maritime regions of Québec, the extension to December 31, 2007 of the period of eligibility for the tax credit and the clarification made to the adjustment relating to major unforeseen events will also be applied, according to the same rules as those indicated in the case of the refundable tax credit for processing activities in the resource regions.

Furthermore, as indicated above, the notion of certified business, for the purposes of the refundable tax credit for processing activities in the resource regions, will be broadened as of calendar year 2004 to incorporate essentially the manufacturing of specialized equipment for aluminum production or aluminum processing companies.

In parallel with this broadening measure, the notion of certified business for the purposes of the refundable tax credit for the Vallée de l'aluminium will be clarified to indicate that the manufacturing of finished products will henceforth include equipment, whether specialized or not, if such equipment is manufactured from aluminum that has undergone primary processing.

Consequently, an eligible corporation for which an eligibility certificate for the refundable tax credit for the Vallée de l'aluminium was issued in relation to such activities, prior to calendar year 2004, may continue to receive a tax credit for the stipulated period of five years. However, as of calendar year 2004, an eligible corporation whose activities consist in manufacuring specialized equipment, other than that manufactured from aluminum that has undergone primary processing, must apply for an eligibility certificate regarding the refundable tax credit for processing activities in the resource regions. The expiration of such eligibility certificate will be set from the reference calendar year of the first certificate previously issued to the eligible corporation.

These changes will apply as of calendar year 2004.

2.2.2 Improvement of the tax credit for on-the-job training periods

Over the years, the remote resource regions have benefited from various fiscal measures designed to bolster their economic development but, in spite of these measures, there has been an exodus of young people from these regions to urban centres, chiefly to pursue specialized studies. After completing these studies, most of these young people begin their professional career in one of these cities and never return to the region where they were born.

In addition, the economic problems facing remote resource regions raise other obstacles, demographic in particular, to their development. Accordingly, it is important to convince young people from these regions to remain or return there and to attract young people from other parts of Québec.

Many companies believe in the reciprocal benefits of good cooperation between the education and business communities and, accordingly, offer to complete students' academic learning with solid practical training. The current tax system provides a refundable tax credit for on-the-job training periods that is designed to encourage such initiatives through tax assistance for students who complete a training period with such businesses.

Briefly, a taxpayer can, under certain conditions, claim a refundable tax credit for an on-the-job training period when a student completes an eligible training period in a business he carries on in Québec or that a partnership of which he is a member carries on in Québec (eligible employer). The rate of this tax credit is 30% if the eligible employer is a corporation and 15% in other cases.

The previous government announced an improvement to this tax credit for on-the-job training periods in the March 11, 2003 Budget Speech for training periods completed in remote resource regions. However, in the June 12, 2003 Budget Speech, which among other things focused on tightening tax expenditures, it was announced that this improvement would be discontinued. However, after examining possible solutions to the concerns of taxpayers living in the regions, it has been decided to reintroduce this measure.

Accordingly, to encourage more employers operating in remote resource regions to offer training periods to students and thus participate in the growth of these regions, the maximum amount of the tax credit for training periods completed there will be doubled.

More specifically, the maximum eligible expenditure on which the tax credit is calculated will be raised for students who complete an on-the-job training period in a remote resource region. This will also apply to the maximum hourly rate of salaries paid to an eligible intern that can be considered for the purposes of calculating such expenditure.

❑ Eligible training period

Under the existing rules, a training period qualifies for the purposes of the tax credit if it is a practical training period completed by an eligible intern under the direction of an eligible supervisor.

In general, an eligible intern is:

a) an apprentice, for the purposes of the *Act respecting manpower vocational training and qualification* enrolled in the on-the-job training program;

b) an individual enrolled as a full-time student in a secondary, college or university-level education program stipulating the completion of one or more training periods lasting a total of at least 140 hours during the program;

c) an individual enrolled in the Apprenticeship Plan instituted under the *Act to foster the development of manpower training*; or

d) an individual enrolled as a full-time student in a vocational training program or a program designed for the social and vocational integration of young people that stipulates the completion of one or more training periods lasting a total of at least 140 hours during the program.

Eligible training periods and eligible interns covered by the improvement to the tax credit for on-the-job training periods are those already covered for the purposes of the tax credit, provided such training periods are completed by such interns in an eligible region.

❑ Eligible expenditure regarding an intern

Briefly, the tax credit is calculated on the basis of the eligible expenditure regarding an eligible intern, which consists of the wages and salaries the intern received in the course of an eligible training period, and those an eligible supervisor received for the hours he devoted to overseeing the intern. However, this expenditure is limited in two ways, i.e. a weekly maximum and a maximum hourly rate.

• Maximum eligible expenditure

Under the existing rules, the maximum eligible expenditure that applies regarding an eligible intern is:

— $625 per week, if the eligible intern is an individual covered by paragraphs c) or d) of the preceding definition of an eligible intern; and

— $500 per week for all other eligible interns.

The tax legislation will be amended to raise the maximum eligible expenditure applicable regarding an eligible intern of an eligible employer who completes an eligible training period, at a given time of a taxation year or fiscal year, as the case may be, in an establishment of an eligible employer located in an eligible region.

Accordingly, in this case, the maximum weekly eligible expenditure applicable regarding an eligible intern will be raised to $1 250 and $1 000 respectively, i.e. double the current amounts.

• Maximum hourly rate

For the purposes of calculating this tax credit, the maximum hourly rate of wages and salaries that an eligible employer may consider regarding an eligible intern is $15 although the actual hourly rate can be higher.

The tax legislation will also be amended to raise, from $15 to $25, the maximum hourly rate of wages and salaries that an eligible employer may consider for the purposes of determining the tax credit regarding an eligible intern who completes an eligible training period at a given time of a taxation year or fiscal year, as the case may be, in an establishment of an eligible employer located in an eligible region.

❑ Eligible regions

Eligible regions consist of the territory included in the following administrative regions and RCMs:

- Bas-Saint-Laurent (region 01);
- Saguenay–Lac-Saint-Jean (region 02);
- Haut-Saint-Maurice RCM;
- Mékinac RCM;
- Abitibi–Témiscamingue (region 08);
- Côte-Nord (region 09);
- Nord-du-Québec (region 10);
- Gaspésie–Îles-de-la-Madeleine (region 11);
- Antoine-Labelle RCM;
- Vallée-de-la-Gatineau RCM;
- Pontiac RCM.

❑ Clarification and application date

For greater clarity, all the other parameters currently stipulated for the purposes of the tax credit for on-the-job training periods remain unchanged.

These changes will apply regarding an eligible expenditure incurred after the day of this Budget Speech in relation to an eligible training period beginning after that day.

2.2.3 Reform of the Cooperative Investment Plan

Since 1985, the Cooperative Investment Plan (CIP) has encouraged the growth of cooperatives by granting a tax benefit to members and workers who acquire preferred units issued by an eligible cooperative - essentially, a work cooperative or a cooperative at least 90% of whose activities consist in supplying goods or services that enable the persons dealing with it to earn business income.

It was announced in the June 12, 2003 Budget Speech that the relevance of the program, in its existing form, would be reviewed and that during such review, no cooperative, other than a work cooperative or a shareholding workers cooperative, would be issued an eligibility certificate for the CIP authorizing it to issue securities eligible for this plan.

It was also announced that the authorization to issue securities eligible for the CIP that an eligible cooperative, other than a work cooperative or a shareholding workers cooperative, held on June 12, 2003 would be, subject to the subsequent revocation of the eligibility certificate, restricted to the preferred units that must be issued to satisfy an undertaking concluded in writing, no later than June 12, 2003, with an eligible worker as part of an investment program for workers.

The review of the CIP has shown that government assistance for the capitalization of cooperatives is still justified. However, the review has shown the need to better target this assistance to direct it towards the cooperatives or federations of cooperatives that really need it. Accordingly, the rules of the CIP will be changed substantially and, subject to the provisions of a fiscal nature, will be grouped under a separate law to form a new Cooperative Investment Plan, referred to hereunder as the "new plan", intended for the capitalization of Québec cooperatives and federations of cooperatives.

Briefly, the new plan will feature the following major changes:

- criteria regarding the territoriality of activities carried out by cooperatives and federations of cooperatives, the *situs* of their assets and, for some of them, their capitalization rate will be introduced to direct capitalization assistance towards entities that need it and with a substantial presence in Québec;
- a new category of eligible investors will be recognized to enable certain individuals who are shareholders of a corporation that is a member of an agricultural cooperative or a federation of agricultural cooperatives to directly acquire securities giving rise to a tax benefit;

- the minimum holding period of securities will be raised to five years to guarantee a better impact on the capitalization of cooperatives and federations of cooperatives – redemption of securities after the expiration of such period not being conditional on an increase in their reserve;
- the deduction allowed eligible investors in calculating their taxable income will be determined by applying a single rate of 125% to the cost of the eligible security;
- measures to ensure the integrity of the plan will be introduced, in particular a penalty applicable to cooperatives and federations of cooperatives that withdraw, in favour of their members, substantial funds during a specific period around the issue of securities giving rise to a tax benefit.

This new plan will be applicable as of the day following the day of this Budget Speech, subject to the transition rules described at the end of this subsection. A cooperative or federation of cooperatives wishing to take advantage of the new plan must send, after the day of this Budget Speech, an application to the Minister of Economic and Regional Development and Research, hereunder referred to as the "Minister of MDERR", for authorization to issue securities eligible under the new plan.

❑ Eligibility certificate

The Minister of MDERR may, upon application by a cooperative or a federation of cooperatives, issue an eligibility certificate to it for the new plan if, at the end of the fiscal year ending in the calendar year preceding the authorization application, the cooperative or federation of cooperatives satisfies the criteria relating to:

- the type of cooperatives or of federations of cooperatives;
- the territoriality of the activities and the *situs* of the assets;
- the capitalization rate;
- equity as at April 23, 1985.

The eligibility certificate issued by the Minister of MDERR will authorize the cooperative or federation of cooperatives to issue securities eligible for the new plan. Such authorization will be valid until the eligibility certificate is revoked.

Type of cooperatives or of federations of cooperatives

A cooperative or a federation of cooperatives may be eligible for the new plan if it is governed by the *Cooperatives Act* or incorporated under the *Canada Cooperatives Act* and if it is:

- either a work cooperative or a shareholding workers cooperative;
- a solidarity cooperative that would be a work cooperative were it not that it has supporting members;
- a producers cooperative or a solidarity cooperative that would be a producers cooperative were it not for the fact that it has supporting members, provided that at least 90% of the goods or services it provides, including those provided through a partnership or a subsidiary, are provided to persons or partnerships that obtain them for the purpose of earning business income;
- a producers cooperative most of whose members, other than associate or auxiliary members, carry on an agricultural business registered with the ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ) as an agricultural operation, as understood for the purposes of the *Regulation respecting the registration of agricultural operations and the reimbursement of real estate taxes and compensations*, such agricultural operation being referred to hereunder as a "recognized agricultural operation"; or
- a federation of cooperatives most of whose members, other than the auxiliary members, are work cooperatives, shareholding workers cooperatives, producers cooperatives or persons that carry on an agricultural business registered with MAPAQ as a recognized agricultural operation.

Territoriality of activities and *situs* of assets

To be eligible for the new plan, a cooperative or a federation of cooperatives must exercise its general management in Québec and more than half of the wages paid to its employees must be paid to employees who, for the purposes of the regulations enacted under section 771 of the *Taxation Act*, are employees of an establishment located in Québec.

In addition, most of the assets held by a cooperative, other than a shareholding workers cooperative, or by a federation of cooperatives, as the case may be, including those held by a subsidiary, by a partnership of which the cooperative or federation of cooperatives, as the case may be, is the majority member or by a trust in which the latter transferred assets from its capital must be located in Canada.

In the case of a shareholding workers cooperative, most of the assets held by the corporation of which it is a shareholder must be located in Canada for the criterion relating to the *situs* of the assets to be satisfied.

- **Capitalization rate**

The capitalization rate of a cooperative or of a federation of cooperatives must be below 60% for it to be eligible for the new plan, unless it is a work cooperative or a shareholding workers cooperative or if it obtained an exemption from the Minister of MDERR because it is in the process of carrying out an expansion or development project.

In this regard, the capitalization rate of a cooperative or of a federation of cooperatives means the proportion represented by total equity over total assets, calculated in accordance with generally accepted accounting principles using the audited financial statements of the cooperative or of the federation.

The amount of equity of a cooperative or of a federation of cooperatives that must be included in the determination of its capitalization rate will include the amount of preferred units issued by the cooperative or the federation.

- **Equity as at April 23, 1985**

A cooperative or a federation of cooperatives will be eligible for the new plan only if its equity that does not consisting of securities issued under the CIP[51] is equal to at least 80% of such equity on April 23, 1985.

For the purposes of this criterion, equity means equity as understood in section 19 of the *Regulation under the Cooperatives Act*, at the end of the last fiscal year preceding April 23, 1985 or the end of the fiscal year ending in the calendar year preceding the authorization application, as the case may be, following the allocation of surplus earnings or excess amounts of the year and the payment of taxes; fluctuations in corporate capital since the end of each of these fiscal years until April 23, 1985 or the date of the authorization application, depending on which one applies to it, must also be taken into account, without including deficits for the fiscal years ending after April 23, 1985.

In the case of a cooperative that is the result of a merger after April 23, 1985, the equity of such cooperative on that date will be deemed to be the aggregate of the equity of the merged cooperatives or of the cooperative and the corporation that merged, without including the units held by the merged cooperative or corporation in the other merged cooperative.

A similar presumption will apply to determine equity as at April 23, 1985 of a federation of cooperatives resulting from a merger after that date.

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[51] Securities issued under the CIP include both securities issued under the rules of the new plan and those issued under the rules of the former plan.

❑ Discretionary power relating to the capitalization rate

Even if a cooperative or a federation of cooperatives, as the case may be, fails to satisfy the criterion relating to the capitalization rate (rate below 60%), it may obtain authorization to issue securities eligible for the new plan if it shows, to the satisfaction of the Minister of MDERR, that it is in the process of carrying out an expansion or development project that:

— once completed, will bring its capitalization rate below 60%;

— should increase its sales in relation to activities connected to its object;

— will begin no later than the end of the twelve-month period following the date of issue of an exemption relating to the satisfaction of the criterion regarding the capitalization rate, hereunder referred to as the "exemption regarding the capitalization rate".

In this regard, an expansion or development project means a project whose expenditures are related either to investments in fixed assets, such as the acquisition or modernization of machinery, plants or warehouses, or to the working capital needed to carry out the project, or to the acquisition of a participation or the increase in the participation in entities whose activities are related to the object of the cooperative or the federation of cooperatives.

If the Minister of MDERR is convinced that these requirements are satisfied by an otherwise eligible cooperative or federation of cooperatives, he may grant it an exemption authorizing it to issue securities eligible for the new plan for a period of twelve months following the issue date of the exemption provided the proceeds of the issue of such securities do not exceed 60% of the total value of the expansion or development project.

Such exemption will be revoked automatically at the end of the twelve-month period following its issue date.

❑ Issue authorization application

A cooperative or a federation of cooperatives seeking authorization to issue securities eligible for the new plan must send a written application to the Minister of MDERR together with the following documents:

— a copy of the bylaw authorizing the issue of preferred units and a copy of the resolution of the board of directors setting out the terms and conditions for the issue of such units;

- an attestation signed by two directors of the cooperative or of the federation of cooperatives, as the case may be, that the criteria relating to the type of cooperatives or of federations of cooperatives, to the territoriality of activities and to the *situs* of the assets are satisfied;

- except in the case of a work cooperative or a shareholding workers cooperative, a certificate signed by the auditor of the books of the cooperative or of the federation of cooperatives certifying that the capitalization rate of the cooperative or of the federation of cooperatives is below 60% or, if such is not the case, a detailed description of its expansion or development project;

- a certificate signed by the auditor of the books of the cooperative or of the federation of cooperatives certifying that the equity that does not consist of securities issued under the CIP[52] is not less, at the end of the fiscal year ending in the calendar year preceding the year of the application, than 80% of such equity as at April 23, 1985;

- any other information the Minister may consider necessary regarding the eligibility of the cooperative or of the federation of cooperatives.

❑ Eligible securities

A tax benefit will be granted regarding a security issued by a cooperative or a federation of cooperatives only if such security is an eligible security, i.e. a preferred unit that satisfies the following conditions:

- it is issued by a cooperative or a federation of cooperatives that satisfies the criterion relating to the type of cooperatives or of federations of cooperatives;

- its issue is authorized by the Minister of MDERR under an eligibility certificate issued after the day of this Budget Speech;

- if the payment of interest is stipulated, it bears interest at a maximum rate determined by resolution of the board of directors; such interest must be non-cumulatif and be payable annually when decided by the board of directors if allowed by the financial situation of cooperative or of the federation of cooperatives, as the case may be;

- it is acquired as first acquirer by an eligible investor regarding the cooperative or the federation of cooperatives authorized to issue the security.

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[52] Ibid.

- **Minimum holding period**

To ensure that issues carried out under the new plan increase the permanent capital of cooperatives or of federations of cooperatives, a preferred unit will be considered an eligible security only if it cannot be redeemed until the expiration of a period of at least five years beginning on its issue date. If a cooperative or a federation of cooperatives carries out more than one issue of eligible securities, they will be redeemable according to their seniority.

- **Penalty for early redemption**

If a cooperative or a federation of cooperatives redeems an eligible security issued under the new plan before the minimum holding period of the security has expired, the cooperative or federation of cooperatives will incur a penalty equal to 30% of the amount of the eligible security thus redeemed.

❑ Eligible investors

An eligible investor regarding a cooperative or a federation of cooperatives authorized to issue a security eligible for the new plan means:

— an individual who is either a member[53] or an employee of the cooperative or of the federation of cooperatives, as the case may be;

— a partnership that is a member of the cooperative or of the federation of cooperatives, provided the latter is, as the case may be, an agricultural cooperative or a federation of cooperatives most of whose members are agricultural cooperatives or persons that operate an agricultural business registered with MAPAQ as a recognized agricultural operation, hereunder referred to as "federation of agricultural cooperatives";

— an individual who holds, at the time the security is issued, at least 10% of the shares of the issued capital stock with unrestricted voting rights of a corporation that is a member, at such time, of the cooperative or of the federation of cooperatives, provided the latter is, as the case may be, an agricultural cooperative or a federation of agricultural cooperatives;

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[53] For greater clarity, the expression "member" includes neither a supporting member (investing member) nor an auxiliary member (trial member) nor an associate member (consumer member of an agricultural cooperative).

- an individual who is an employee of a partnership of which the cooperative or federation of cooperatives, as the case may be, is a member and of which all the other members, with the exception of a general partner, are producers cooperatives or federations of producers cooperatives, provided that:
  - at least 90% of the activities of the partnership consist of processing or agricultural activities or in supplying goods or services to persons or to partnerships that obtain them for the purpose of earning business income;
  - according to the terms of an agreement concluded between the cooperative or federation of cooperatives, as the case may be, and the partnership, the proceeds of the issue of securities eligible for the new plan is paid to the partnership;
  - the conclusion of such agreement is certified by a certificate issued by the Minister of MDERR;
- an individual who is an employee of a partnership of which the cooperative or federation of cooperatives is a member, provided the latter is, as the case may be, a producers cooperative or a federation of cooperatives most of whose members are producers cooperatives or persons that operate an agricultural business registered with MAPAQ as a recognized agricultural operation, provided that:
  - at least 90% of the activities of the partnership consist of processing or agricultural activities or in supplying goods or services to persons or to partnerships that obtain them for the purpose of earning business income;
  - the cooperative or federation of cooperatives, as the case may be, holds, at the time a security eligible for the new plan is issued, an interest in the partnership that enables him to participate in the profit or loss of such partnership in a proportion greater than 50%;
- an individual who is an employee of a subsidiary of the cooperative or of the federation of cooperatives, provided the latter is, as the case may be, a producers cooperative or a federation of cooperatives most of whose members are producers cooperatives or persons that operate an agricultural business registered with MAPAQ as a recognized agricultural operation, provided that:
  - at least 90% of the activities of the subsidiary consist of processing or agricultural activities or in supplying goods or services to persons or to partnerships that obtain them for the purpose of earning business income;

  - the cooperative or federation of cooperatives, as the case may be, owns, directly or indirectly, more than 50% of the shares of the capital stock of the subsidiary with unrestricted voting rights;

- a trust governed by a registered retirement savings plan (RRSP), of the type commonly called "self-directed", regarding which the annuitant under the plan is an eligible investor.

If a partnership acquires, during a given fiscal year, a security eligible for the new plan from an agricultural cooperative or from a federation of agricultural cooperatives of which it is a member, it must file with the latter, no later than January 31 of the year following the year in which the given fiscal year ended, a written statement showing the share of each eligible member in the income or loss of the partnership for such fiscal year, assuming, if the income and loss of the partnership for such fiscal year is zero, that the income of the partnership for such fiscal year is equal to $1 million.

For the purposes of the new plan, the expression "eligible member" means an individual who was a member of the partnership at the end of the given fiscal year and who, at that time, exercised the activities of agricultural producer through the partnership.

❑ Deduction for the acquisition of an eligible security

An individual, other than a trust, who resides in Québec at the end of December 31 of a given taxation year may deduct, in calculating his taxable income for the year, an amount not exceeding the amount by which the adjusted cost of an eligible security he acquired during the year or during one of the five preceding years, exceeds any amount deducted, regarding such eligible security, for those preceding years.

In this regard, the adjusted cost of an eligible security, for an individual, is obtained by multiplying the cost of such security for the individual, determined without including borrowing expenses and other expenses inherent in the acquisition of the security, by 125%.

To claim this deduction during a given taxation year, an individual must enclose, with the income tax return filed for that year, a form prescribed by the Minister of Revenue, as well as any information slip he received, for the year, from a cooperative or a federation of cooperatives regarding the eligible securities he acquired or that were acquired by the partnership of which he is an eligible member.

• Eligible security acquired by a trust governed by an RRSP

If, at any time, a trust governed by an RRSP, of the type commonly called "self-directed", acquires, as first acquirer, an eligible security of a cooperative or a federation of cooperatives, the following rules will apply:

— the annuitant under the plan at such time will be deemed to be the person who acquires the eligible security at such time as first acquirer and the trust will be deemed not to be such person, provided the annuitant, at such time, is an individual who is otherwise an eligible investor regarding the cooperative or the federation of cooperatives, as the case may be;

— the cost of the eligible security for the annuitant will be deemed to be the same as that of the trust.

• Eligible security acquired by a partnership

If a partnership acquires, during a given fiscal year, an eligible security of a cooperative or a federation of cooperatives, as the case may be, the individual who was a member of the partnership, at the end of the given fiscal year, and who, at that time, carried out the activities of agricultural producer through the partnership[54] will be deemed to have acquired, in the year during which the given fiscal year ends, the eligible security at a cost equal to the proportion of its cost for the partnership represented by the ratio between the individual's share of the income or loss of the partnership for the given fiscal year and the income or loss of the partnership for such fiscal year.

• Total income

The deduction claimed by an individual may not, for a given taxation year, exceed 30% of the individual's total income for the year. Essentially, an individual's total income, for a year, corresponds to the excess of his income for the year determined without including income replacement indemnities received by virtue of a law, over the exemption on taxable capital gains claimed for the year.

❑ Integrity of the plan

Various measures will be implemented to ensure that the new plan benefits cooperatives and federations of cooperatives that satisfy, regarding the year during which they issue securities eligible for the new plan, the conditions giving rise to the issue of their eligibility certificate, and that make an effort to raise capital by avoiding large outflows of funds to their members.

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[54] I.e. an eligible member of the partnership for the purposes of the new plan.

Other measures will also be implemented in particular to enable the Minister of MDERR and the Minister of Revenue, who administer the new plan jointly, to obtain the information needed to administer the plan, to specify the reasons for revocation of an eligibility certificate and to protect investors.

- **Special tax for non-compliance with eligibility conditions**

A cooperative or a federation of cooperatives holding an eligibility certificate must pay, for a calendar year during which it issues eligible securities, a special tax equal to 30% of the proceeds of the issue of such securities if, at the end of the fiscal year that ended in the calendar year preceding that of the issue, it failed to comply with any of the criteria, other than the criterion relating to equity as at April 23, 1985, that gave rise to the issue of its eligibility certificate.

This special tax will be payable no later than March 31 of the year following the year for which it is payable.

- **Penalty for the payment of a cash rebate or large outflow of funds**

If, during a given year in which securities eligible for the new plan were issued, during the 24 months preceding such year or during the 48 months following it, a cooperative or a federation of cooperatives holding an eligibility certificate paid, to one of its members, a rebate other than in the form of units or carried out, without authorization from the Minister of MDERR, a large outflow of funds — other than one carried out to redeem securities eligible for the new plan — in favour of one of its members or of a person related to the latter, the cooperative or federation of cooperatives, as the case may be, will incur a penalty equal to 30% of the amount of the rebate or outflow of funds, up to the amount by which 30% of the proceeds of the issue of the eligible securities for the given year exceeds all the amounts paid under this penalty for a prior year in relation to that same issue.

- **Penalty relating to the reduction in corporate capital of 1985**

If a cooperative or a federation of cooperatives holding an eligibility certificate issues, during a given year, eligible securities and the equity of such cooperative or of such federation of cooperatives is reduced, before the eligible securities are redeemed, to less than 80% of what it was on April 23, 1985 because of a reduction of its corporate capital other than through a repayment of the partnership shares belonging to a member who died, became disabled, or became subject to tutorship or curatorship, such cooperative or federation of cooperatives will incur a penalty equal to 30% of the portion of such reduction that reduces equity to less than 80% of what it was on April 23, 1985.

- **Information returns**

A cooperative or a federation of cooperatives must file an information return, using a prescribed form, regarding all the eligible securities acquired by an eligible investor during a given year or, if the eligible investor is a partnership, regarding the share of an eligible member of the partnership in relation to such securities.

The cooperative or federation of cooperatives must, in addition, indicate on such information return whether, at the end of the fiscal year ending in the calendar year preceding the given year during which it issued eligible securities, it satisfied the criteria that gave rise to the issue of its eligibility certificate, i.e. the criteria relating to:

— the type of cooperatives or of federations of cooperatives;

— the territoriality of the activities and the *situs* of the assets;

— the capitalization rate;

— equity as at April 23, 1985.

Should it fail to satisfy the criterion relating to the capitalization rate, the cooperative or federation of cooperatives, as the case may be, must indicate whether it obtained, for the year, an exemption regarding the capitalization rate from the Minister of MDERR.

This information return must be sent to the Minister of Revenue no later than February 28 of the year following the year during which an eligible security is acquired by an eligible investor.

Upon request, the Minister of Revenue may send the Minister of MDERR the portion of such return on which is indicated the information concerning the criteria relating to the eligiblity of a cooperative or of a federation of cooperatives.

A cooperative or a federation of cooperatives must also send, to each eligible investor who acquired an eligible security during a given year, no later than February 28 of the year following the year during which the security was acquired, an information return showing the adjusted cost of such security. If the eligible investor is a partnership, such return must be sent to each eligible member of the partnership.

Moreover, a cooperative or a federation of cooperatives must send, to the Minister of MDERR, no later than the 90th day of the year following the year during which it issued eligible securities, a detailed statement of issues of such securities.

- **Exchange of information**

The Minister of MDERR must send the Minister of Revenue:

— a copy of the eligibility certificate authorizing a cooperative or a federation of cooperatives to issue securities eligible for the new plan;

— a copy of the notice of revocation of an eligibility certificate;

— a copy of the certificate attesting that a written agreement was concluded between cooperatives and federations of cooperatives and the partnership of which they are members;

— any other information that the Minister of Revenue may consider necessary for the purposes of the new plan.

- **Revocation of eligibility certificate**

The Minister of MDERR may revoke an eligibility certificate authorizing a cooperative or a federation of cooperatives to issue securities eligible for the new plan, if he has valid reasons to believe that:

— any of the criteria that gave rise to the issue of the certificate is no longer satisfied;

— the cooperative or federation of cooperatives, knowingly or under circumstances amounting to gross negligence, made a false statement or omitted to provide important information in an application for authorization to issue eligible securities, in any other document accompanying such application or in the information return it must file, using the prescribed form, with the Minister of Revenue;

— the cooperative or federation of cooperatives omitted to send any document required for the purposes of the new plan;

— the cooperative or federation of cooperatives governed by the *Cooperatives Act* did not send a copy of its annual report by the assigned deadline, as required under the law;

— the cooperative or federation of cooperatives was dissolved under the *Act respecting the legal publicity of sole proprietorships, partnerships and legal persons,* the *Cooperatives Act* or the *Canada Cooperatives Act*;

- the cooperative or federation of cooperatives decided to wind itself up in compliance with the *Cooperatives Act* or the *Canada Cooperatives Act*;
- the cooperative or federation of cooperatives was constituted or organized chiefly to benefit from the new plan and not to carry out its object.

The Minister of MDERR, when he revokes an eligibility certificate, will be required to provide the cooperative or federation of cooperatives concerned with a notice to that effect in which he must indicate the date on which the revocation will take effect. Such date may not be prior to the date of the notice. The eligibility certificate will then be revoked as of such date.

A cooperative or federation of cooperatives whose certificate is revoked may not obtain a new eligibility certificate before the expiration of a period of 36 months following the date on which the revocation takes effect.

- **Issue of ineligible securities**

A cooperative or a federation of cooperatives that undertakes an issue of securities without holding a valid eligibility certificate or whose certificate has been revoked and that states that such securities are eligible for the new plan will incur a penalty equal to 50% of the amount of the securities sold when it did not hold a valid eligibility certificate or after the revocation date of such certificate.

- **Protection of investors**

The Minister of MDERR may make available to the public the list of cooperatives and federations of cooperatives that hold an eligibility certificate under the new plan or whose eligibility certificate has been revoked.

Moreover, a cooperative or a federation of cooperatives holding an eligibility certificate must provide an individual to whom it offers to acquire eligible securities with a copy of the bylaw authorizing it to issue such securities as well as a copy of the resolutoin of the board of directors that determines, in particular, the amount, privileges, rights, restrictions and conditions of redemption of such securities.

- **Penalty to professionals**

A person or partnership that makes or presents — or has another person make or present — a statement it knows or should have known, were it not for circumstances equivalent to culpable conduct, to be a false statement that a third party could use under the new plan or who participates in such a statement will incur a penalty.

For the purposes of such penalty, culpable conduct means any conduct — action or failure to act — equivalent to intentional conduct or conduct demonstrating indifference regarding compliance with the rules of the new plan or deliberate, wanton or reckless disregard with respect to this plan. A false statement means in particular a statement that is misleading because of an omission.

The amount of the penalty a person or partnership may be liable for regarding a false statement will be equal to the following:

— if the statement is made in the course of planning, selling or promoting an arrangement relating to the new plan, the greater of $1 000 or the total of the amounts to which the person or the partnership is entitled in relation to such arrangement;

— in other cases, $1 000.

❑ Application date and transition rules

The rules of the new plan will apply regarding an application for authorization to issue eligible securities submitted to the Minister of MDERR after the day of this Budget Speech.

However, work cooperatives and shareholding workers cooperatives that hold, on the day of this Budget Speech, an eligibility certificate authorizing them to issue eligible securities according to the terms of the former plan will be able to continue to issue such securities, until the date they obtain an eligibility certificate issued in accordance with the rules of the new plan or December 31, 2004, whichever occurs first.

In addition, cooperatives, other than work cooperatives and shareholding workers cooperatives, as well as federations of cooperatives that, on June 12, 2003, held an eligibility certificate — otherwise valid on the day of this Budget Speech — will be authorized, until the date they obtain an eligibility certificate issued in accordance with the rules of the new plan or December 31, 2004, whichever occurs first, to issue eligible securities according to the rules of the former plan, provided they must be issued to satisfy an undertaking that was concluded in writing no later than June 12, 2003, with an eligible worker under an investment program for workers.

Moreover, if the deduction relating to the CIP applies regarding an eligible security governed by the former plan and acquired after the day of this Budget Speech, the adjusted cost of such security will be equal to:

— 112.5% of the acquisition cost if the security was acquired from a small or medium-size cooperative or federation of small and medium-size cooperatives, under an investment program for workers;

— 93.75% of the acquisition cost if the security was acquired from a small or medium-size cooperative or federation of small and medium-size cooperatives, other than under an investment program for workers;

— 93.75% of the acquisition cost if the security was acquired under an investment plan for the workers of a cooperative or a federation of cooperatives other than a cooperative or federation of cooperatives covered by the preceding points;

— 75% of the acquisition cost in other cases.

For greater clarity, an eligible security issued in accordance with the rules of the former plan will be subject to the requirements of such plan concerning its redemption. A cooperative or a federation of cooperatives that redeems an eligible security governed by the former plan without complying with the requirements of that plan will incur a penalty equal to 50% of the amount of eligible securities thus redeemed.

2.2.4 Concordant change in the deduction for eligible rebate

On February 21, 2002, the government supported the efforts of Québec cooperatives to increase their capitalization by introducing a mechanism for the deferral of taxation of an eligible rebate received by a member of an eligible cooperative.[55]

Briefly, a taxpayer who is a member of an eligible cooperative during a taxation year of such cooperative and who receives an eligible rebate consisting of a preferred unit during a taxation year may claim a deduction in calculating his taxable income, for such taxation year (deduction for eligible rebate). The taxpayer may then defer the tax on the value of such preferred unit until the time of its alienation.

To enable a member to claim the deduction for an eligible rebate, a cooperative must hold an eligibility certificate from the MDERR.

In general, eligible cooperatives for the purposes of the deduction for an eligible rebate are also cooperatives eligible for the purposes of the CIP, as both these measures have the same objective of fostering the capitalization of Québec cooperatives.

The notion of eligible cooperative has been redefined, for the purposes of the CIP, as part of the reform of this plan announced in this Budget Speech.[56]

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[55] Bulletin d'information 2002-2.

[56] See subsection 2.2.3.

Accordingly, in order to standardize the notions of eligible cooperatives for the purposes of the support measures for the cooperative community, a concordant change will be made to the notion of eligible cooperative for the purposes of the deduction for eligible rebate.

More specifically, the tax legislation will be amended to stipulate, for the purposes of the deduction for eligible rebate, that an eligible cooperative, for a taxation year, means a cooperative that has obtained an attestation from the MDERR certifying that it satisfies all the following requirements:

- it is governed by the *Cooperatives Act* or incorporated under the *Canada Cooperatives Act* and it belongs, for such taxation year, to one of the following categories of cooperatives:
  - a work cooperative or a shareholding workers cooperative;
  - a solidarity cooperative that would be a work cooperative were it not that it has support members;
  - a producers cooperative or a solidarity cooperative that would be a producers cooperative were it not for the fact that it has support members, provided that at least 90% of the goods or services it provides, including those provided through a partnership or a subsidiary, are provided to persons or partnerships that obtain them for the purpose of earning business income;
  - a producers cooperative most of whose members, other than associate or auxiliary members, carry on an agricultural business registered with MAPAQ as a farm operation, as understood for the purposes of the *Regulation respecting the registration of agricultural operations and the reimbursement of real estate taxes and compensations*, such farm operation being referred to hereunder as a "recognized agricultural operation";
  - a federation of cooperatives most of whose members, other than the auxiliary members, are work cooperatives, shareholding workers cooperatives, producers cooperatives or persons that carry on an agricultural business registered with MAPAQ as a recognized agricultural operation.
- its senior management is in Québec and more than half of the salaries paid to its employees during its fiscal year ended prior to this taxation year were paid to employees who, for the purposes of the regulations enacted under section 771 of the *Taxation Act*, are employees of an establishment located in Québec;

— most of the assets held by such cooperative, other than a shareholding workers cooperative,[57] or by a federation of cooperatives, as the case may be, including those held by a subsidiary, by a partnership of which the cooperative or federation of cooperatives, as the case may be, is the majority member or by a trust in which the latter transferred assets from its capital, at the end of the fiscal year ended before such taxation year, are located in Canada;

— its capitalization rate, at the end of the fiscal year ended before such taxation year, is below 60%, unless it is a work cooperative or a shareholding workers cooperative or if it obtained an exemption from the Minister of the MDERR because it is in the process of carrying out an expansion or development project.

For greater clarity, for the purposes of the latter criterion, the capitalization rate of a cooperative will be determined in accordance with the rules currently stipulated in this regard for the deduction of the eligible rebate.[58]

In addition, the exemption regarding compliance with the criterion relating to the capitalization rate will be granted, for the purposes of the deduction for eligible rebate, if the cooperative shows that it satisfies the conditions for obtaining such an exemption for the purposes of the CIP.

These changes will apply regarding an application for an eligibility attestation relating to a taxation year of a cooperative ending after the day of this Budget Speech.

2.3 Improvement to tax benefits relating to natural resources

A tax credit for resources was introduced as part of the March 29, 2001 Budget Speech. This tax credit is a more direct assistance mechanism that was to quickly replace all the tax benefits relating to flow-through shares.

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[57] In the case of a shareholding workers cooperative, most of the assets held by the corporation of which it is a shareholder, at the end of the fiscal year ended before such taxation year, are located in Canada.

[58] The capitalization rate means the proportion represented by the total equity over total assets, calculated in accordance with generally accepted accounting principles using the audited financial statements of the cooperative. For the purposes of such calculation, the amount of equity must include the amount of preferred units such cooperative has issued, whether or not they were attributed in the form of an eligible rebate.

However, an initial transition period was allowed to enable the industry to adapt to the new tax credit. Accordingly, the rules announced on March 29, 2001 stipulated that the flow-through share system could continue to be used for the remainder of 2001. This transition period was subsequently extended for three years.[59]

In addition, prior to applying a moratorium regarding them as part of the June 12, 2003 Budget Speech, an investor could, under the flow-through share system, enjoy special treatment under Québec's tax system, i.e. a deduction regarding certain issue expenses and an additional capital gains exemption regarding certain assets relating to resources.

Lastly, again as part of the June 12, 2003 Budget Speech, the level of assistance for a number of fiscal measures was reduced, in particular for certain components of the flow-through share system and the tax credit for resources. Accordingly, under the flow-through share system, taxpayers can currently claim deductions equal to 100%, to 110.42% or to 131.25%, as the case may be, regarding mining, oil and gas exploration expenses incurred in Canada or in Québec, while an eligible corporation that incurs eligible expenses in Québec can claim a tax credit of up to 45% of the amount of such eligible expenses.

Many improvements will be made to these tax benefits relating to natural resources.

2.3.1 Fiscal measures of the flow-through share system made permanent

Three years after the implementation of the tax credit for resources intended to replace the flow-through share system, it appears that the transition to the new tax credit is not possible for some corporations, junior companies in particular.

Consequently, the basic flow-through share system will be made permanent once again.

In addition, the fiscal measures that enable individuals to claim additional deductions regarding mining, oil and gas exploration expenses incurred in Québec will become permanent measures.[60]

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[59] An initial two-year extension announced on September 14, 2001 in Bulletin d'information 2001-9 and a second one-year extension announced in the March 11, 2003 Budget Speech and confirmed in the June 12, 2003 Budget Speech.

[60] Prior to this Budget Speech, an individual could benefit from these additional deductions only regarding mining, oil or gas exploration expenses incurred in Québec before January 1, 2005, subject to the twelve-month period stipulated by the tax legislation.

Lastly, the additional deductions of 25% a corporation can claim, under the *Taxation Act* and the *Mining Duties Act*, for certain exploration expenses incurred in Québec's Mid North and Far North will also be made permanent once again. Accordingly, the expenses giving rise to this additional deduction may also continue, beyond calendar year 2004, to be foregone in favour of the investor when such investor is a corporation and such exploration expenses are funded by flow-through shares.

2.3.2 Moratorium lifted on two measures specific to Québec's flow-through share system

Prior to June 12, 2003, an investor could, under the flow-through share system, receive special tax treatment under Québec's tax system, i.e. a deduction regarding certain issue expenses and an additional capital gains exemption regarding certain assets relating to resources.[61]

Concerning the deduction regarding certain issue expenses, it should be noted that under the general rules relating to expenses incurred for a public issue of flow-through shares, such expenses must be deducted in calculating the income of the issuing corporation over a period of five years.

However, provided the corporation foregoes the deduction of issue expenses thus incurred and that such expenses relate to shares or securities whose proceeds will be used to incur exploration expenses in Québec, an additional deduction is allowed the acquirers of flow-through shares for an amount equal to the lesser of the issue expenses incurred by the corporation and 15% of the proceeds of the issue of flow-through shares.

Concerning the additional capital gains exemption relating to resources, it should be noted that, in general, the capital gain realized by a taxpayer who disposes of an asset is equal to the difference between the price obtained on the sale of the asset and the price paid to acquire it.

However, if the asset is a flow-through share, the price paid to acquire the share is deemed to be zero since, in general, such a share gives rise to substantial tax deductions.

Consequently, the full amount received on the sale of such a share constitutes a capital gain, regardless of the price actually paid to acquire it.

However, provided the tax deductions were obtained by the holder of the flow-through share because exploration expenses were incurred in Québec, the realized capital gain, up to the purchase price of the share, may be exempted by using this additional capital gains exemption. Briefly, this additional capital gains exemption is based on a historical expenditures account.

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[61] Before the moratorium regarding these two fiscal measures was implemented, these measures were to apply to shares acquired no later than December 31, 2004.

The review of these two measures is now complete, and it appears that these two fiscal measures are a significant incentive for exploration in Québec. Consequently, the moratorium on these two fiscal measures will be lifted.

In addition, as previously mentioned, Québec's flow-through share system will become permanent. In the same way, the deduction regarding certain issue expenses and the additional capital gains exemption regarding certain assets relating to resources will also become permanent measures.

These changes will apply regarding flow-through shares acquired after the day of this Budget Speech.

2.3.3 Rate of additional deductions raised

Since June 12, 2003, the deductions an individual may claim regarding mining, oil and gas exploration expenses incurred in Québec, by businesses with no resource development profits, are equal to 110.42% or 131.25%, as the case may be.

More specifically, these deductions are distributed as follows:

- a basic deduction of 100% of Canadian exploration expenses, Canadian development expenses and expenses regarding Canadian oil and gas assets;
- if the investor is an individual, in addition to the basic deduction of 100%:
    - in the case of mining exploration expenses incurred in Québec:
        - an initial additional deduction of 10.42%;
        - a second additional deduction of 20.83% for surface expenses;
    - in the case of oil and gas exploration expenses incurred in Québec, an additional deduction of 31.25%.

To encourage exploration in Québec, the additional deductions will be raised substantially. Accordingly, the deductions an individual may claim will be equal to 125% or to 150%, as the case may be, regarding mining, oil and gas exploration expenses incurred in Québec.

More specifically, these deductions will be distributed as follows:

- a basic deduction of 100% of Canadian exploration expenses, Canadian development expenses and expenses regarding Canadian oil and gas assets;

- if the investor is an individual, in addition to the basic deduction of 100%:
  - in the case of mining exploration expenses incurred in Québec:
    - an initial additional deduction of 25%;
    - a second additional deduction of 25% for surface expenses;
  - in the case of oil and gas exploration expenses incurred in Québec, an additional deduction of 50%.

The new rates of the additional deductions will apply regarding flow-through shares acquired after the day of this Budget Speech.

2.3.4 Tax credit for resources improved

An eligible corporation that incurs eligible expenditures during a taxation year can claim a refundable tax credit, for such year, of up to 33.75% of the amount of such eligible expenses.

Furthermore, in some cases, a non-refundable portion raises the rate of the total tax credit a corporation may claim to 45%. If, during a taxation year, the non-refundable portion of the tax credit exceeds income tax and tax on capital payable for such taxation year, such excess may be carried forward to the following seven taxation years and back to the preceding three taxation years, and applied against income tax and tax on capital payable for such taxation years.

In addition, as part of the November 1, 2001 Budget Speech, the scope of this tax credit was extended to another type of natural resource, i.e. cut stone. For this type of natural resource, a single rate of 15% applies.

Lastly, a temporary improvement to this tax credit was announced on August 20, 2002.[62] Under this improvement, a non-refundable portion of the tax credit was added, until 2007 inclusive, bringing the maximum rate of this tax credit to 45% in the case of eligible expenses incurred regarding mineral resources.

The rate of the tax credit that a corporation may claim for the eligible expenses it incurs depends on a number of parameters, in particular the type of resource to which the eligible expenses relate, where such expenses are incurred, and the type of corporation that incurs the expenses.

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[62] Bulletin d'information 2002-9.

The following table shows the various rates that currently apply depending on these parameters.

TABLE 1.6

RATE OF THE TAX CREDIT FOR RESOURCES PRIOR TO THE IMPROVEMENT
(Per cent)

	Corporations that develop no mineral resource or oil or gas well			Other corporations		
Tax credit regarding eligible expenses	**Refundable portion**	**Non-refundable portion**	**Total**	**Refundable portion**	**Non-refundable portion**	**Total**
— relating to mineral resources						
– in the Mid North or Far North	33.75	11.25	45	18.75	26.25	45
– elsewhere in Québec	30	15	45	15	30	45
— relating to oil and gas						
– in the Mid North or Far North	33.75	n.a.	33.75	18.75	n.a.	18.75
– elsewhere in Québec	30	n.a.	30	15	n.a.	15
— relating to renewable energy and energy savings	30	n.a.	30	30	n.a.	30
— relating to other natural resources (cut stone)	15	n.a.	15	15	n.a.	15

As a corollary to the improvement to the rate of the additional deductions an individual can claim regarding mining, oil and gas exploration expenses incurred in Québec by exploration companies with no resource development profits, some rates of the tax credit for resources will also be improved.

This improvement will be proportional to the one applied to these additional deductions. It should be noted that some of the rates of this tax credit were set on the basis of the maximum level of assistance provided by the flow-through share system that an individual may claim under this system.

Consequently, the refundable portion of the tax credit that a corporation that does not develop a mineral resource or an oil or gas well may claim will be raised by five percentage points, except regarding eligible expenses relating to cut stone. However, in the case of expenses relating to mineral resources, a correlative adjustment will be made to the non-refundable portion to limit the total tax credit to the current ceiling of 45%.

Accordingly, the new applicable rates will be as shown in the following table.

TABLE 1.7

RATE OF THE TAX CREDIT FOR RESOURCES AFTER THE IMPROVEMENT
(Per cent)

	Corporations that develop no mineral resource or oil or gas well			**Other corporations**		
Tax credit regarding eligible expenses	**Refundable portion**	**Non-refundable portion**	**Total**	**Refundable portion**	**Non-refundable portion**	**Total**
— relating to mineral resources						
– in the Mid North or Far North	38.75	6.25	45	18.75	26.25	45
– elsewhere in Québec	35	10	45	15	30	45
— relating to oil and gas						
– in the Mid North or Far North	38.75	n.a.	38.75	18.75	n.a.	18.75
– elsewhere in Québec	35	n.a.	35	15	n.a.	15
— relating to renewable energy and energy savings	35	n.a.	35	30	n.a.	30
— relating to other natural resources (cut stone)	15	n.a.	15	15	n.a.	15

This improvement to some rates of the tax credit for resources will apply regarding eligible expenses incurred after the day of this Budget Speech.

Moreover, to enable more corporations to benefit fully from this tax credit, the carry forward period of the non-refundable portion of this tax credit will be raised from seven to ten years. Accordingly, when, during a taxation year, the non-refundable portion of the tax credit exceeds income tax and tax on capital payable for such taxation year, such excess may be carried forward for the following ten taxation years and carried back for the preceding three taxation years and applied against income tax and the tax on capital payable for such taxation years.

This change will apply as of the day of this Budget Speech.

2.4 Improvement and simplification of tax assistance relating to the carrying out of activities in a biotechnology development centre

In general, a corporation that carries out an innovative project in the field of biotechnology in a biotechnology development centre (CDB) can benefit from a number of fiscal measures, while a corporation that carries out specified activities in a CDB, i.e. activities carried out other than as part of the carrying out of an innovative project, can claim only a refundable tax credit regarding salaries paid to specified employees.

More specifically, a corporation that carries out an innovative project in a CDB can, in addition to the refundable tax credit regarding salaries paid to certain employees, receive a five-year tax holiday (income tax, tax on capital and employer contribution to the Health Services Fund (HSF)), a refundable tax credit for the acquisition or lease of eligible specialized equipment and a refundable tax credit for the short-term rental of eligible specialized facilities.

In addition, a foreign specialist employed by a corporation that carries on an innovative project in the biotechnology field in a CDB can receive a five-year tax holiday on the salary from such employment.

The June 12, 2003 Budget Speech introduced significant changes to these fiscal measures. The level of assistance granted to a corporation that carries out an innovative project in the biotechnology field in a CDB was reduced by 25%, while the refundable tax credit regarding salaries that may be claimed by a corporation that carries out specified activities in a CDB, i.e. activities carried out other than as part of the carrying out of an innovative project, was eliminated. In addition, the tax holiday of a foreign specialist employed by a corporation that carries out an innovative project was reduced to 75%. However, the rights of taxpayers who benefited from these measures, or were in process of benefiting from them, were protected.

Changes will be made to the application details of the tax assistance a corporation that carries out activities in a CDB may claim. Furthermore, additional eligible specialized facilities will be designated for the CDB de Laval.

❏ Standardization of tax assistance

Under the existing rules, a corporation that carries out specified activities in a CDB, i.e. activities carried out other than as part of the carrying out of an innovative project, can claim only a refundable tax credit regarding salaries paid to specified employees. Accordingly, it cannot benefit from the other tax assistance measures accessible to a corporation that carries out an innovative project, in particular the refundable tax credit for the acquisition or lease of eligible specialized equipment and the refundable tax credit for the short-term rental of eligible specialized facilities. In addition, only corporations that carry out specified activities whose rights were protected can still benefit from the refundable tax credit regarding salaries paid to specified employees.

In addition, a corporation that carries out an innovative project in the biotechnology field in a CDB can benefit from a number of fiscal measures. Experience has shown that the concept of innovative project is poorly adapted to the biotechnology field and results in many application problems, particularly regarding the identification and carrying out of the innovative project by a separate entity,[63] which must be a new corporation.

Changes will be made to the existing rules to enable this fiscal measure to better respond to the special needs of the biotechnology field.

First, the concept of innovative project will be eliminated concerning the carrying out of activities in a CDB. Second, corporations that carry out specified activities in a CDB will again be able to claim tax assistance. Lastly, all corporations that carry out specified activities in the biotechnology field in a CDB will be able to claim the same fiscal measures, resulting in substantial simplification.

In addition, the elimination of the concept of innovative project means it is no longer desirable to require, as was the case for the carrying out of an innovative project, that a new corporation carry out the activities.[64] Accordingly, this requirement will also be eliminated.

Accordingly, in most cases, activities eligible for tax assistance will not be the only ones carried out by the corporation. In this context, the application of the tax holiday may be problematic and accordingly it will be eliminated.

On the other hand, any corporation that carries out activities in the biotechnology field in a CDB may claim these three refundable tax credits, i.e. the one on salaries, the one for the acquisition or lease of eligible specialized equipment and the one for the short-term rental of eligible specialized facilities.

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[63] The transfer of certain rights to a new corporation that carries out the innovative project is especially problematic.

[64] It should be noted that this is the main difficulty identified by corporations interested in this fiscal measure.

Overall, granting this new standardized tax assistance to all corporations carrying out activities in the biotechnology field in a CDB constitutes not only a simplification, but a substantial improvement as well.

- **Specific case of eligible specialized equipment**

For the purposes of the tax credit for the acquisition or lease of eligible specialized equipment, the existing rules stipulate that the specialzied equipment must be new at the time of its acquisition or at the beginning of its lease by the exempt corporation and that it must be used chiefly in a building housing a CDB and, furthermore, exclusively or almost exclusively to earn income from a business it carries on in such CDB.

The rules relating to the use of eligible specialized equipment must be adapted because of the elimination of the concept of innovative project. When the concept of innovative project is used, compliance with these rules generally does not cause a problem because the equipment is used in the course of carrying out the sole reason for the existence of an exempt corporation, namely the carrying out of its innovative project.

Regarding the first condition, i.e. use chiefly in a building housing a CDB, these changes need not be adjusted provided the activities carried out in the CDB are normally activities eligible for tax assistance.

However, regarding the second condition, i.e. exclusive or almost exclusive use to earn income from a business that the exempt corporation carries on in such a CDB, care must be taken to ensure that it is the business or the part of the business otherwise eligible for the tax assistance. Accordingly, this criterion will be changed to stipulate that the asset must be used exclusively or almost exclusively in the course of the business or the part of the business eligible for the tax assistance relating to the carrying out of activities in a CDB.

In addition, the criterion stipulating that a corporation can claim this refundable tax credit for acquisition expenses incurred during the first three years of its five-year tax holiday, and for rental expenses paid during such five-year tax holiday when they are attributable to a lease that began during the first three years of such tax holiday will be adapted for corporations that do not benefit from this tax holiday. Accordingly, in the case of a corporation that does not benefit from this tax holiday, and previously did not benefit from it, these five and three-year periods will begin on the date on which a corporation may benefit from the tax assistance relating to the carrying out of specified activities in a CDB. Accordingly, henceforth Investissement Québec will indicate in the eligibility attestation it issues to a corporation regarding its specified activities the date from which a corporation could begin to benefit from the tax assistance relating to the carrying out of specified activities in a CDB.

- **Eligible specialized facilities**

Concerning the refundable tax credit relating to the short-term rental of eligible specialized facilities, the criterion stipulating that a corporation can benefit from this refundable tax credit regarding eligible rental expenses incurred during its five-year tax holiday will be adapted to apply to the first five years of eligibility for this tax assistance. The beginning of this five-year period will be determined according to the same rules as those indicated above for the purposes of the refundable tax credit relating to eligible specialized equipment.

In addition, the expression "eligible specialized facility" of a given CDB, for the purposes of this tax credit, means no more than two types of facilities, i.e. eligible specialized facilities located in premises of a given CDB, and those designated for such CDB and located in premises outside the CDB. In both cases, Investissement Québec must issue an eligibility attestation.

In the case of an eligible specialized facility located in premises of the CDB, the existing rules stipulate that this facility must be located other than in premises of a corporation that carries out an innovative project in the biotechnology sector.

In view of the changes indicated above, the reference to premises of a corporation that carries out an innovative project in the biotechnology sector will be replaced with a reference to premises of a corporation that can receive tax assistance relating to the carrying out of activities in a CDB.

- **Tax holiday for foreign specialists**

The existing rules stipulate, among other conditions, that a foreign specialist must be employed by a corporation that carries out an innovative project in the biotechnology sector in a CDB in order to receive a five-year tax holiday on the salary from such employment.

This special condition must be adapted because of the elimination of the concept of innovative project. Accordingly, this requirement will be replaced by an obligation to be employed by a corporation that carries out activities eligible for tax assistance relating to the carrying out of activities in the biotechnology sector in a CDB.[65]

- **Application date**

In the case of corporations that carry out specified activities, i.e. other than in the course of carrying out an innovative project, these changes will apply after the day of this Budget Speech.

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[65] The application details of the five-year tax holiday available to a foreign specialist employed by a corporation that carries out eligible activities in the biotechnology sector in a CDB are further modified as part of this Budget Speech. See subsection 2.6.

More specifically, such corporations may benefit from the refundable tax credit regarding acquisitions of eligible specialized equipment made during a period beginning after the day of this Budget Speech and ending three years after the specified activities begin to be carried out. They may also benefit from the refundable tax credit regarding rental expenses paid during a period beginning after the day of this Budget Speech and ending five years after specified activities begin to be carried out if such rental expenses are attributable to a lease that began during a period beginning after the day of this Budget Speech and ending three years after the specified activities began to be carried out. Lastly, such corporations may benefit from the refundable tax credit regarding rental expenses incurred, in relation to the short-term rental of eligible specialized facilities, during a period beginning after the day of this Budget Speech and ending five years after the specified activities began to be carried out.

For greater clarity, the rate of these tax credits will be 30%, even for specified corporations for which the rate of the tax credit on salaries is 40%.

Corporations that, on the day of the Budget Speech, are already carrying out an innovative project in a CDB will not be affected by these changes and accordingly may continue to benefit from their tax holiday.[66]

However, a corporation that ceases to carry out its innovative project but continues to carry out specified activities in a CDB may benefit from the new rules. In such a case, only the rate of the tax credit on salaries will be maintained at 40%, if it is the rate such corporation enjoyed.

With respect to the refundable tax credit for the acquisition or lease of eligible specialized equipment and the refundable tax credit for short-term rental of eligible specialized facilities, such a corporation may benefit from them for its remaining eligibility period for these tax credits, taking into account the elapsed portion of the applicable eligibility period.

❑ Designation of new eligible specialized facilities for the CDB de Laval

In view of the above, a corporation that carries out activities in a CDB can generally claim a refundable tax credit regarding eligible rental expenses for the short-term rental of eligible specialized facilities.

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[66] The situation will be the same for a corporation that submitted a written application to Investissement Québec before the day of this Budget Speech.

In the case of corporations that move into the CDB de Laval, the expression "eligible specialized facility", for the purposes of this tax credit, means a facility regarding which a person has obtained an eligibility attestation from Investissement Québec to the effect that such facility is:

— either put in place by such person in the CDB de Laval, other than in premises of a corporation that can benefit from the tax assistance for carrying out activities in a CDB, and includes almost exclusively specialized assets used in the biotechnology field that, at the time they were installed in the CDB de Laval, were new and intended to be rented on a short-term basis by many persons;

— or a specialized facility of the Institut national de la recherche scientifique (INRS), used in the biotechnology field and located in the Cité de la biotechnologie et de la santé humaine du Montréal métropolitain.

Accordingly, in the case of the CDB de Laval, an eligible specialized facility may be located either in premises of the CDB or in premises located outside the CDB.

The Centre québécois d'innovation en biotechnologie (CQIB), a non-profit organization that is an incubator specializing in biotechnology, recently moved into the CDB de Laval. This organization has specialized facilities, some of which have been transferred from its former site, that are now located in the CDB de Laval.

In this context, a third type of facility will be designated for the CDB de Laval, so that a specialized facility of the CQIB located in the CDB de Laval may be recognized as an eligible specialized facility.

More specifically, in the case of corporations that move into the CDB de Laval, the expression "eligible specialized facility", for the purposes of the refundable tax credit regarding eligible rental expenses for the short-term rental of eligible specialized facilities, will mean, in addition to the facilities described above, a facility regarding which a person has obtained an eligibility attestation from Investissement Québec to the effect that such facility is a specialized facility of the CQIB used in the biotechnology field and located in premises of the CQIB in the CDB de Laval.

Provided that the other applicable criteria are satisfied, in particular the issuance of eligibility attestations by Investissement Québec, corporations may claim the refundable tax credit regarding rental expenses incurred after the day of this Budget Speech in relation to the short-term rental of eligible specialized facilities of the CQIB.

2.5 Improvement to the refundable tax credit for technology adaptation services

Since 1999, a refundable tax credit with two components exists to further support small businesses in gathering and processing strategic information and in their research cooperation and innovation initiatives. The first component of this tax credit concerns competitive information, i.e. the results of intelligence activities carried out by a competitive intelligence centre, while the second component concerns liaison and transfer services.

Briefly, the tax credit an eligible corporation may claim, for a taxation year, is calculated by multiplying by 30% the amount of eligible expenditures incurred by the eligible corporation, during such year, with an eligible competitive intelligence centre, an eligible liaison and transfer centre or an eligible college technology transfer centre, as the case may be.

Eligible expenditures include an amount equal to 80% of the fees relating to intelligence or liaison and transfer services, the amount of the subscription fees for intelligence or liaison and transfer products or services as well as the amount of fees for participation in training and information activities relating to intelligence or liaison and transfer services.

Lastly, a corporation may claim a tax credit, for a taxation year, if the amount of its assets, for its preceding taxation year, is less than $25 million, including the assets of corporations associated with such corporation during the year.

It was announced in the June 12, 2003 Budget Speech that all business assistance measures would be reassessed to determine their relevance and effectiveness.

While liaison and transfer centres and college technology transfer centres are particularly effective mechanisms for partnership and the transfer of knowledge in Québec's research and innovation system, the financial impact of the refundable tax credit for technology adaptation services shows that this measure has not achieved the results expected.

In this context, and to increase cooperation between these centres and businesses, the refundable tax credit for technology adaptation services will be improved regarding liaison and transfer services. Accordingly, the rate of the tax credit will be raised to 50% and the criterion bearing on the amount of a corporation's assets will be eliminated.

To target this tax assistance more effectively, the subscription fees for liaison and transfer products and services will no longer be eligible expenditures for the purposes of the component relating to liaison and transfer services. In addition, the component of the tax credit relating to competitive information will be eliminated.

Lastly, amendments will be made to the tax legislation and regulations to recognize two new eligible college technology transfer centres and, for the past, a new eligible competitive intelligence centre.

❑ Change to the notion of eligible corporation

In general, a corporation that, during a taxation year, carries on a business in Québec and has an establishment there may, under certain conditions, claim the tax credit for such year.

More specifically, such a corporation may claim the tax credit, for a taxation year, if the amount of its assets as shown in its financial statements submitted to shareholders for its preceding taxation year or, if the corporation is in its first fiscal year, at the beginning of its first fiscal year, is less than $25 million, including the assets of corporations associated with such corporation during the year.

The review of the tax credit has shown that the criterion bearing on the amount of the corporation's assets limited cooperation in research and innovation between businesses and the innovation communities formed by eligible liaison and transfer centres and eligible college technology transfer centres.

Accordingly, to further support businesses in these initiatives, the criterion bearing on the amount of a corporation's assets will be withdrawn as of the day of this Budget Speech. Consequently, corporations, regardless of their size, may claim the refundable tax credit for technology adaptation services regarding expenditures incurred after the day of this Budget Speech.

❑ Determination of the tax credit

Currently, the tax credit an eligible corporation can claim, for a taxation year, is determined by multiplying by 30% the amount of eligible expenditures incurred by the eligible corporation, during such year, with an eligible liaison and transfer centre or an eligible college technology transfer centre, as the case may be.

The tax legislation will be amended to raise the rate of the refundable tax credit for technology adaptation services to 50%. This rate will apply regarding eligible expenditures incurred by an eligible corporation after the day of this Budget Speech.

❑ Change to the notion of eligible expenditures

For the purposes of the tax credit for technology adaptation services, eligible expenditures mean the portion of the fees required by an eligible liaison and transfer centre or by an eligible college technology transfer centre, as the case may be, in consideration for the products and services it offers and that correspond to the following amounts:

— an amount equal to 80% of the fees relating to liaison and transfer services provided by the eligible liaison and transfer centre or by the eligible college technology transfer centre, as the case may be;

— the amount of subscription fees for liaison and transfer products and services offered by the eligible liaison and transfer centre or by the eligible college technology transfer centre, as the case may be;

— the amount of fees for participation in training and information activities, in relation to liaison and transfer services, given by the eligible liaison and transfer centre or by the eligible college technology transfer centre, as the case may be.

Subscription fees for liaison and transfer products or services will no longer constitute eligible expenditures. More specifically, such expenditures incurred by an eligible corporation, after the day of this Budget Speech, with an eligible liaison and transfer centre or by the eligible college technology transfer centre, as the case may be, as part of a contract concluded after that day, will no longer give rise to the tax credit.

In addition, in the case of a contract concluded no later than the day of this Budget Speech, such expenditures may give rise to the tax credit if they are incurred in relation to products or services offered before April 1, 2005. However, in such a case, the rate of the tax credit will be 30%.

❑ Recognition as an eligible college technology transfer centre

On August 26, 2002, the ministère de l'Éducation du Québec (MEQ) accredited the Centre collégial de transfert technologique en optique-photonique (OPTECH) as a college technology transfer centre (CCTT). This CCTT has two research centres, namely the Centre de photonique du Québec inc. and the Centre de technologie physique et de photonique de Montréal.

The tax legislation will first of all be amended to indicate that a research centre affiliated with a CCTT may be recognized as an eligible college technology transfer centre, for the purposes of the refundable tax credit for technology adaptation services.

The *Taxation Regulations* will also be amended to recognize the Centre de photonique du Québec inc. and the Centre de technologie physique et de photonique de Montréal, as eligible college technology transfer centres for the purposes of the refundable tax credit for technology adaptation services.

This recognition will apply regarding eligible expenditures incurred by an eligible corporation after August 25, 2002, in relation to products or services offered by these CCTTs after that date.

❑ Elimination of the component concerning competitive information

The component of the refundable tax credit for technology adaptation services concerning competitive information will be eliminated. More specifically, eligible expenditures incurred by an eligible corporation after the day of this Budget Speech, with an eligible competitive intelligence centre, as part of a contract concluded after that day, will no longer give rise to the tax credit.

In addition, in the case of a contract concluded no later than the day of this Budget Speech, only the eligible expenditures incurred in relation to products or services offered prior to April 1, 2005 may give rise to this tax credit and at the current rate of 30%.

Lastly, the *Taxation Regulations* will be amended to recognize EQMBO Entreprises inc., a technology and technical assistance centre for furniture and milled wood, as an eligible competitive intelligence centre for the purposes of the refundable tax credit for technology adaptation services.

This recognition will apply regarding eligible expenditures incurred by a corporation after April 27, 2003, in relation to products or services offered by EQMBO Entreprises inc. after that date and prior to April 1, 2005, under a contract concluded no later than the day of this Budget Speech.

2.6 Five-year tax holidays granted to certain foreign employees

Briefly, an individual who is not a resident of Canada, and who comes to Québec to work in the specialized sectors listed below, can receive a five-year tax holiday when he is hired as:

— a post-doctoral researcher employed by an eligible university entity or a public research centre;

— a professor employed by a Québec university;

- a researcher employed by a person who carries on a business in Canada and who carries out scientific research and experimental development (R&D) work in Québec;
- a specialist, particularly in the field of management of innovation activities, employed by a person who carries on a business in Canada and who carries out R&D work in Québec;
- a specialist employed by a corporation that carries on a business in the biotechnology sector in a CDB;[67]
- a specialist in the field of international financial transactions employed by a person who operates an international financial centre (IFC);
- an expert employed by a corporation that operates a securities exchange or a securities clearing corporation.

These tax holidays consist of a deduction in the calculation of the individual's taxable income, corresponding to an amount equal to 75% of the individual's salary or of all his income, as the case may be.

However, this deduction is 100% regarding the job of an individual who concluded an employment contract no later than June 12, 2003 and commenced employment in such job no later than September 1, 2003 in one of the specialized sectors listed above.

More specifically, an individual can receive a single five-year exemption period applicable for all tax holidays granted to certain foreign employees.[68]

Accordingly, the exemption period applicable to each of the tax holidays granted to foreign employees is calculated taking into account any previous exemption period established regarding such individual, under all the tax holidays granted to foreign employees, and the total of such periods may not exceed five years.

Furthermore, employee mobility is allowed. In this regard, the tax legislation currently allows the employee to change jobs while he continues to reside in Canada and to continue to receive a tax holiday granted to foreign employees, even though there was an interruption in his employment. In that case, the five-year exemption period applicable to tax holidays granted to foreign employees is calculated without taking into account the period of interruption between eligible jobs for the purposes of these tax holidays.

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[67] See subsection 2.4 concerning tax assistance for carrying out activities in a CDB.

[68] In addition to the tax holidays listed above, this five-year exemption period also applies to the tax holidays granted to certain foreign employees that were eliminated in the June 12, 2003 Budget Speech.

In the context of the reassessment of the effectiveness and relevance of all preferential fiscal measures, the calculation details of the five-year exemption period of tax holidays granted to foreign employees will be changed. In addition, the amount of assistance of these tax holidays will be changed so that it declines during the five-year exemption period.

More specifically, the tax legislation will be amended so that:

— the five-year exemption period of the tax holidays granted to foreign employees henceforth is continuous and begins on the day when, for the first time, the employee commenced employment in a job that qualifies for one of the tax holidays granted to certain foreign employees;[69]

— employee mobility continues to be allowed, but that henceforth the periods of interruption between eligible jobs be counted in the five-year exemption period;

— the amount of tax assistance of the tax holidays granted foreign employees is gradually reduced during the five-year exemption period.

In the latter regard, the amount that an individual may deduct, in calculating his taxable income during the continuous five-year exemption period will correspond to a percentage of his salary or of all his income, as the case may be, equal to 100% for the first and second years of such period, to 75% for the third year, to 50% for the fourth year and to 25% for the fifth year. However, the percentage for the fifth year will be 37.5% for the following two tax holidays:

— specialist in the field of international financial transactions employed by a person who operates an IFC;

— expert employed by a corporation that operates a securities exchange or a securities clearing corporation.

For instance, assuming an individual receives a tax holiday for a foreign employee regarding a job in which he commenced employment for the first time on January 1, 2004, and, on July 1, 2007, he begins a new job eligible for a tax holiday on salaries, he will enjoy a remaining exemption period of 18 months.

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[69] For greater clarity, the tax holidays eliminated in the June 12, 2003 Budget Speech must also be considered in calculating this continuous five-year exemption period.

Regarding such new job, the individual may deduct, in calculating his taxable income, 50% of his salary relating to the six-month period included in the fourth year of the five-year exemption period and 25% of his salary relating to the twelve-month period of the fifth year of the five-year exemption period.[70]

The other application details of all the tax holidays granted to certain foreign employees will remain unchanged. Accordingly, in particular, the current legislation stipulates that a renewed contract is deemed not to be a separate contract from the preceding employment contract.

These changes will apply in relation to an employment contract concluded after the day of this Budget Speech.

For greater clarity, these changes will not apply regarding the job covered by a contract that an individual concluded no later than the day of this Budget Speech. Accordingly, neither the five-year exemption period nor the level of tax assistance applicable in relation to such a contract will be affected by these changes.

Similarly, neither will these changes affect situations that already benefit from the transition rules and amendments to the tax legislation concerning tax holidays that were eliminated and those for which the level of tax assistance were reduced in the June 12, 2003 Budget Speech.[71]

2.7 Cap on the issues of labour funds and of Capital régional et coopératif Desjardins

Since the creation of the Fonds de solidarité des travailleurs du Québec, of Fondaction — the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi — and of Capital régional et coopératif Desjardins, the government has supported the mission of these investment corporations by allowing them to collect capital enjoying a tax benefit.

To contribute to the stabilization of the government's financial situation, it was announced, in the June 12, 2003 Budget Speech, that the amount of issues of these investment corporations would be limited for one year.

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[70] The deduction would correspond to 37.5% of all the individual's income for the twelve-month period of the fifth year, in the case of the tax holidays granted to foreign employees of IFCs, securities exchanges or securities clearing corporations.

[71] *2003-2004 Budget Speech, Additional Information on the Fiscal Measures*, subsections 1.2.11 and 1.3.18.

In view of the vulnerability of public finances, it was also announced, on February 23, 2004, that a moratorium would be applied preventing any increase in the authorized capital of Capital régional et coopératif Desjardins that, on March 1, 2004, was to begin a new capital-raising period.[72]

Recent studies have shown that the supply of capital in Québec is very high, although many small and medium-size Québec-based companies still suffer from a lack of financing. This supply of capital stems to a large extent from the three investment corporations authorized to collect capital enjoying a tax benefit.

In this context, the government's participation in the growth of each of these three investment corporations will again be subject to certain limits.

❑ Labour funds

The amount of paid-up capital regarding shares or fractions of shares giving rise to a tax benefit that may, with the government's support, be raised by labour funds during their fiscal year beginning June 1, 2004 and ending May 31, 2005 will be limited, in the case of Fondaction, to $100 million and, in the case of the Fonds de solidarité des travailleurs du Québec, to $700 million.

A labour fund that, during a given fiscal year, fails to comply with the investment standards imposed on it by its act of incorporation is systematically limited in its capacity to issue shares during the following fiscal year.

Since the amount that can be raised with the government's support by labour funds, during their 2003-2004 fiscal year, is limited, failure to comply with their investment standard for such fiscal year will not result in a reduction in the amounts set by this Budget Speech for their 2004-2005 fiscal year.

In the event that, at the end of the 2004-2005 fiscal year of a given labour fund, the amount of paid-up capital regarding all the shares or fractions of shares giving rise to a tax benefit issued by such fund during such fiscal year exceeds the maximum amount determined for it by this Budget Speech, the labour fund will be required to pay the Minister of Revenue a special tax of an amount equal to 15% of such excess no later than the 90th day following the end of the fiscal year.

❑ Capital régional et coopératif Desjardins

The moratorium regarding issues of shares of Capital régional et coopératif Desjardins will be lifted as of midnight, eastern standard time, the day of this Budget Speech.

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[72] Bulletin d'information 2004-4.

Accordingly, Capital régional et coopératif Desjardins may start, on the day following the day of this Budget Speech, a new capital-raising period ending February 28, 2005. However, during such period, its authorized capital may increase by only $100 million, bringing its authorized capital, by the end of such period, from $525 to $475 million.

Should the paid-up capital of the issued and outstanding shares of the capital stock of Capital régional et coopératif Desjardins exceed $475 million at the end of its capital-raising period ending February 28, 2005, Capital régional et coopératif Desjardins will have to pay, no later than May 31, 2005, a special tax of an amount equal to 50% of such excess amount, from which must be deducted all the amounts paid under such special tax for a previous capital-raising period.

For greater clarity, for a capital-raising period ending after 2005, the paid-up capital of the issued and outstanding shares of Capital régional et coopératif Desjardins may again increase by $150 million per capital-raising period, reaching a maximum amount of $1 375 million on February 28, 2011.

The following table shows the maximum amount that the paid-up capital of the issued and outstanding shares of Capital régional et coopératif Desjardins may reach up to February 28, 2011.

TABLE 1.8

MAXIMUM AUTHORIZED CAPITAL
(Millions of dollars)

Capital-raising periods	Maximum capital
From the day following the Budget Speech to February 28, 2005	475
From March 1, 2005 to February 28, 2006	625
From March 1, 2006 to February 28, 2007	775
From March 1, 2007 to February 29, 2008	925
From March 1, 2008 to February 28, 2009	1 075
From March 1, 2009 to February 28, 2010	1 225
From March 1, 2010 to February 28, 2011	1 375

2.8 Moratoriums concerning the Québec stock savings plan and Québec business investment companies maintained

Briefly, the Québec stock savings plan (QSSP) is a plan that allows an individual to deduct, in calculating his taxable income for a taxation year, an amount of up to 150% of the cost of shares he acquired under the plan no later than December 31 of the year, without, however, exceeding 10% of his total income for the year.

In addition, a Québec business investment company (QBIC) is a private corporation that collects funds from individuals and whose activities consist mainly in acquiring and holding common shares of the capital stock of small and medium-size private corporations (qualified corporations). The deduction allowed the individual shareholder of a QBIC can reach 150% of the value of his participation in an investment made by the QBIC in a qualified corporation. However, such deduction cannot exceed 30% of the individual's total income for a year.

A moratorium regarding these two plans was announced in the June 12, 2003 Budget Speech and a study of their continued relevance was undertaken.

Along with this review of the QSSP and QBIC capitalization assistance tools, the government also undertook a broader examination of the role of the state in funding businesses, especially its role in venture capital.

In this context, various analyses were initiated to assess the financing needs of businesses and the role the government should play in this field.

These initiatives are still in progress. Accordingly, it is too soon to decide on the relevance of the QSSP and QBICs as well as their furutre. Consequently, the moratorium announced on June 12, 2003 regarding these two plans is maintained for an indefinite period.

2.9 Continuation of the moratorium concerning the tax holiday regarding major investment projects

The March 14, 2000 Budget Speech introduced a ten-year tax holiday for major investment projects.

Briefly, an eligible taxpayer who carries out, after March 14, 2000, a major investment project in Québec can, under certain conditions, receive a tax holiday for all or part of a calendar year. However, to obtain the tax holiday, an initial eligibility attestation and annual eligibility attestations must be issued by the Minister of Finance.

Essentially, the tax holiday allows eligible taxpayers who carry out a major investment project in Québec to receive, for a period of ten years starting on the date the business relating to the major investment project begins to be carried on, an exemption from income tax, from the tax on capital and from the employer contribution to the HSF, in relation to the business carried on further to the completion of the major investment project.

Under the applicable rules, two types of investment projects can qualify, for the purposes of the tax holiday, as major investment projects, namely:

- an investment project giving rise to an increase in payroll of at least $15 million;
- a project giving rise to an increase in payroll of at least $4 million and involving an investment of at least $300 million.

However, the requirement of an increase in payroll of at least $4 million generally does not apply in the case where a project involving an investment of at least $300 million consists in modernizing or expanding a production unit in Québec.

In addition, the minimum thresholds that allow an investment project to qualify as a major investment project must be achieved no later than a given date that varies with the type of project.

A moratorium was introduced in the June 12, 2003 Budget Speech regarding certain fiscal measures in order to review their effectiveness and utility. The tax holiday regarding major investment projects was covered by the moratorium.

More specifically, this moratorium applied in relation to investment projects for which a written application to obtain this tax holiday was not submitted to the ministère des Finances prior to June 12, 2003. Furthermore, the rights of taxpayers that already enjoyed this tax holiday regarding a major investment project, or were in the process of benefiting from it, were protected regarding their major investment project.

The moratorium applied to this tax holiday will be maintained until a final decision concerning it is made.

For greater clarity, taxpayers whose rights were protected when the moratorium was implemented may continue to benefit from this tax holiday regarding their major investment project.

2.10 Replacement of the tax on telecommunications, natural gas and electricity networks

In general, municipalities collect a property tax on immovables located in their territory. For this purpose, municipalities draw up a property assessment roll by establishing the value of these immovables and this roll is used to calculate the property tax.

However, for reasons of practicality and fairness, immovables that are part of a telecommunications network, a natural gas distribution network or an electrical power production, transmission or distribution network are excluded from the regular property tax system and subject to an alternative system. Under this alternative system, the operator of any of these networks must pay to the ministère du Revenue (MRQ), as property tax, a tax calculated on the income from the operation of the network referred to hereunder as "TGE".

While initially the TGE constituted a true amount in lieu of the property tax, the changes that have been made to it, and especially the upheavals in the telecommunications industry, have resulted in a gap between the TGE and the property tax.

More specifically, the telecommunications industry is currently undergoing profound changes. While the technologies used by operators of different types of telecommunications networks are converging, at the same time, changes to the regulations that apply to this sector encourage competition among these operators, resulting, in particular, in a growing number of players in this industry. In addition, some players, because they do not operate a network, are not subject to the TGE, while others, because they operate at a loss, do not bear their fair share of the overall tax burden.

Accordingly, some types of income, when earned by a person liable for the TGE, must be included in calculating the income used to determine the tax, whereas taken on their own, the activities that generate such income would not be considered as the operation of a telecommunications network. Examples include the income from activities such as installation, maintenance and repair services of equipment of third parties and management services. The same applies to computerized services such as certain "star" services and voice mail. Consequently, some operators suffer substantial increases in TGE payable.

In other words, the growing disparity between the TGE and the value of a telecommunications network arises notably from an increase in the industry's revenue that is not representative of the assets used in the course of operating such a system.

Concerning electricity networks, various categories of operators share the electrical power production, transmission and distribution sectors in Québec, Hydro-Québec constituting the hub of these sectors. However, there are small electrical power plants in outlying areas operated by independent producers that sell the power they produce to Hydro-Québec or to their own customers using, for consideration, Hydro-Québec's transmission network. In all such cases, electricity can be generated using a variety of equipment such as a hydro-power dam, a natural gas or logging waste thermal generating station or a wind-power generating station.

Some municipalities own and operate hydro-electricity production units (operating municipalities). These municipalities buy their electricity from Hydro-Québec and distribute it over their network. In addition, some of these also produce part of their electricity.

Lastly, some electricity generating stations belong to manufacturing companies that have such equipment to supply their plants with electricity and meet their own electricity needs (self-supplied consumers).

Accordingly, the TGE suffers from certain problems specific to electricity networks. For instance, while Hydro-Québec, independent producers and operating municipalities are all subject to the TGE, self-supplied consumers are generally liable for another tax calculated completely differently. In addition, the fact that operating municipalities are subject to the TGE in itself is a disparity compared to the treatment these same municipalities would receive under the regular property tax system under which the immovables that belong to them are not subject to tax.

For these reasons, a thorough reform of the tax system applicable to public utility networks will be carried out to bring it more in line with what would be used under the regular property tax system. This reorganization will have little impact in the short term on the tax burden of operators, but the recurring increases generated by the existing method of calculation of the TGE will be curbed.

In addition, although this reform cannot resolve all the difficulties, it will eliminate some of them. In this regard, clarifications will be made regarding the operating municipalities and regarding self-supplied consumers.

Lastly, this tax system will be removed from the *Act respecting municipal taxation* and incorporated into the *Taxation Act*.

2.10.1 Introduction of the public utilities tax

As mentioned above, the TGE is no longer adapted either to the competition and convergence that have become a reality in the telecommunications industry or to the pace of technological development. Moreover, it is important to contain the constant increases in the tax burden borne by network operators over the last few years. This objective can only be achieved by adopting a tax base other than the revenue from the operation of a network.

Accordingly, as of calendar year 2005, the TGE will be eliminated and replaced by the public utilities tax (PUT), which will be calculated on the net value of the assets that are part of a network. The features of the PUT are described in greater detail below.

❑ Liability

A person, partnership or a trust that, during a calendar year, operates a telecommunications network,[73] a natural gas distribution network or an electrical power production, transmission or distribution network some of whose immovables are not carried to the property assessment roll[74] will have to pay the PUT, for such calendar year, as property tax on such immovables (assets that are part of a network).

Briefly, the immovables not carried to the roll consist of structures that are part of the external portion of any of the following networks:

- a network distributing natural gas to consumers in Québec;
- a telecommunications network other than a television, radio or wireless telecommunications network;
- an electrical power production, transmission or distribution network.

For greater clarity, like the rules that currently apply under the TGE, any structure used to produce electrical power supplied to a person, a partnership or a trust that operates an electrical power production, transmission or distribution network, will be deemed to be part of such a nertwork and a person, partnership or trust that operates such a structure will be deemed to operate such a network.

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[73] For greater clarity, a telecommunications network includes a cable distribution network.

[74] Such immovables are not carried to the roll in accordance with sections 66 to 68 of the *Act respecting municipal taxation*, including a lot that constitutes the site and covered in paragraph 7° of section 204 of that act. In the latter regard, this refers to a lot that belongs to the operator and constitutes the site of a structure that is part of its network. Inversely, if such a structure is carried to the roll, the lot will be as well and accordingly will be subject to the regular property tax system.

• Specific case of operating municipalities

For income tax purposes, municipalities are generally exempt under the principle whereby the government does not tax organizations under its jurisdiction.

In addition, the supply of electricity by operating municipalities is a public utility that they manage.

Consequently, operating municipalities will not be subject to the PUT.

• Specific case of self-supplied consumers

Under existing rules, the operator of an electrical power production network already in existence in 1979 that consumes all or part of the power it produces can qualify as a self-supplied consumer. In that case, rather than being subject to the TGE, a self-supplied consumer must pay a tax, as property tax, to the municipality in which its network is located, regarding the energy it consumes for its own purposes. Furthermore, if such a self-supplied consumer sells part of the electrical power it produces, it is subject to the TGE regarding the revenue from such sale.

Since a very small number of operators are covered by this alternative system, it will be maintained and will not be replaced by the PUT. However, like the TGE it is replacing, where a self-supplied consumer sells part of the electrical power it produces, the PUT and the alternative system will apply concurrently regarding the network it operates. More specifically, the PUT will be calculated taking into consideration the net value of assets attribuable to the entire network, but the PUT then payable will be reduced by the amount of tax otherwise payable under the alternative system applicable to self-supplied consumers.

For greater clarity, where a self-supplied consumer is replaced by another entity that in turn operates the network, such other entity will no longer be covered by the alternative system and only the PUT will apply regarding the network.

❑ PUT base

The PUT payable by the operator of a network, for a calendar year, will be calculated based on the net value of the assets that are part of the exterior portion of the network located in Québec, as such net value is determined at the end of its fiscal year ending in the preceding calendar year, and shown in its financial statements for such fiscal year (net value of assets or NVA).[75]

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[75] The net value of an asset is equal to its cost less accumulated depreciation.

In this regard, the financial statements of an operator of a network must be prepared in accordance with generally accepted accounting principles (GAAP) or, if the financial statements are not prepared or are not prepared in accordance with GAAP, the financial statements of an operator of a network that must then be considered for the purposes of determining the PUT will correspond to the financial statements that would have been prepared in accordance with GAAP.

Furthermore, if the operator is a corporation or a partnership, such financial statements will be those submitted to the shareholders or members, as the case may be.

More specifically, the net value of the assets that are part of a network will consist of the net value of the assets owned by the operator[76] at the end of the fiscal year and the net value of each asset leased by the operator at any time during the fiscal year, other than such an asset shown in the financial statements of another operator that owns them.

Accordingly, where the net value of such a leased asset that is part of a network of an operator is not shown in the financial statements of any operator of a network, the net value of such asset must be added to the net value of the assets of the network of the operator of which such asset is a part. In the latter case, for the purposes of determining, for a fiscal year of such operator of a network, the net value of the asset it holds as lessee, the following rules will apply:

— when the lessor of the asset and the operator of the network of which such asset is a part are not at arm's length at the time the lease contract is concluded, the net value will be equal to the true net value of the asset for the lessor;[77]

— when the lessor of the asset and the operator of the network of which such asset is a part are at arm's length at the time the lease contract is concluded, the net value will be deemed equal to the total rental cost borne by the operator regarding such asset, during a fiscal year. For this purpose, the total rental cost of an asset, for a fiscal year, will be equal to the rental cost[78] borne during the fiscal year by the lessee for the use of the asset, multiplied by 10.

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[76] For greater clarity, an operator who holds an asset as an owner includes an operator who holds an asset under a capital lease contract.

[77] If the asset is covered by a lease followed by one or more sub-leases of which the last relates to the operator of the network, the chain of lessors not at arm's length must be followed to its source. However, if the lease or one of the sub-leases occurred between a lessor and a lessee that are at arm's length and consequently, the true net value cannot be determined, the operator must then use his own total rental cost determined as though the lessor and the operator were at arm's length (in this regard, see the second rule described in the text concerning leased assets).

[78] In the case of a fiscal year shorter than 365 days, the rental cost must be determined as though the year was 365 days long.

In the specific case of land, its net value will be deemed to be equal to its cost. For greater clarity, if the land is not owned by an operator of a network, the existing rules will be maintained. Consequently, the land will be carried to the roll and subject to the regular property tax system.[79]

Lastly, to determine the net value of the assets that are part of a network at the end of a fiscal year, an asset sold by an operator of a network before the end of the fiscal year will be deemed to be an asset owned by the operator at the end of the fiscal year if the Minister of Revenue is of the view that such sale was made as part of a transaction or operation, or as part of a series of transactions or operations, one of whose objectives was to reduce the net value of the assets that are part of its network.

❑ PUT rate

The PUT rate applicable regarding an operator of a network, for a calendar year, will depend on the activity sector and the amount of the net value of the assets that are part of a network determined at the end of its last fiscal year ending in the preceding calendar year. Moreover, regarding the electricity sector, the PUT rate will also depend on whether it applies regarding assets that are part of an electrical power production, transmission or distribution network.

More specifically, the PUT rate and the NVA thresholds on the basis of which this rate will vary are identified in the following table.

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[79] The value of the land is then reduced in proportion to that of the right held by the operator of the network. However, the value of such right is not added to that of the immovables of such operator.

TABLE 1.9

PUT RATE
Activity sectors and NVA thresholds

Activity sectors	**NVA thresholds**	
	$750 million or less	**Over $750 million**
Telecommunications	0.70%	18%
Electricity		
– Production	0.20%	—
– Transmission and distribution	0.20% or 1.70%[1]	1.70%
Natural gas	0.75%	1.50%

(1) In the case of an operator that operates only an electricity transmission or distribution network, a rate of 0.20% will apply to the first $750 million of the net value of assets of his electricity transmission or distribution network. Moreover, in the case of an operator that operates both an electricity production network and an electricity transmission or distribution network, but for which the net value of assets of his electricity production network is less than $750 million, a rate of 0.20% will apply to the tranche of the net value of assets of his electricity transmission or distribution network that corresponds to the difference between $750 million and the net value of assets of his electricity production network. In other cases, a rate of 1.70% will apply to the first $750 million of the net value of assets of the electricity transmission or distribution network.

To determine the applicable rate regarding a given operator of a network for a calendar year, the NVA means the total of the following amounts:

— the net value of assets that are part of the network of the given operator at the end of its last fiscal year ended in the preceding calendar year;

— the net value of assets that are part of the network of any operator, at the end of its last fiscal year ended in the preceding calendar year, with which the given operator is associated at any time of its last fiscal year ended in the preceding calendar year.

Three rules will apply to determine if operators of networks are associated with each other at any time of a fiscal year:

— operators that would be corporations associated with each other at such time for the purposes of the *Taxation Act*, if the rules in this regard applied only on a Québec basis, will be considered to be associated at such time for the purposes of the PUT;

— an operator who is an individual other than a trust will be considered as a corporation all of whose shares with voting rights belong to the individual at the end of the fiscal year;

- an operator that is a partnership or a trust will be considered as a corporation all of whose shares with voting rights belong to members of the partnership or to beneficiaries of the income of the trust at the end of the fiscal year, in proportion to the distribution among them of the income or losses of the partnership or of the trust for the fiscal year.

2.10.2 Integration into the Taxation Act

Like the TGE it is replacing, the PUT will be payable to the MRQ. Furthermore, since the proceeds of the PUT will be retained by the government, like the situation that obtains with the TGE, there is no reason for the presence of this tax in the *Act respecting municipal taxation*. Accordingly, in the interests of consistent application of the various tax provisions, the PUT will be incorporated into the *Taxation Act*.

More specifically, the PUT, for a calendar year, must be paid to the MRQ no later than March 1 of such calendar year.

In addition, the provisions of the *Taxation Act* regarding the deadline for filing the tax return as well as those regarding penalties will apply to the PUT, with the necessary adaptations. Accordingly, for instance, a corporation will have to send a PUT form to the MRQ within six months following the end of its fiscal year.

Furthermore, the provisions regarding the applicable assessment powers and deadlines will also be those currently stipulated for that purpose in the *Act respecting the ministère du Revenu*.

Lastly, if an operator of a network is a partnership, all the terms and conditions of the PUT will apply to it, and not to its members, as though the partnership were a corporation.

The PUT will apply as of calendar year 2005 and the TGE will be eliminated as of the same year.

2.11 Measures concerning culture

During the past decade, the government has used tax credits to support the growth of various Québec cultural industries. These tax credits are the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for film dubbing, the tax credit for sound recording production, the tax credit for the production of shows and the tax credit for book publishing.

Changes will be made to the tax credit for Québec film and television production concerning the categories of excluded productions, the notion of eligible labour expenditure and the name of an assistance fund.

In addition, to ensure compliance with the objectives of the tax credit for sound recording production, an adjustment will be made regarding eligibility for this tax credit.

2.11.1 Refundable tax credit for Québec film and television production

The refundable tax credit for Québec film or television production covers labour expenditures incurred in the course of production of a Québec film, as this expression is understood in the Regulation respecting the recognition of film as Québec films (Regulation). This tax credit generally corresponds to 29.1667% of the eligible labour expenditures incurred to produce the film. However, the labour expenditures giving rise to this tax credit may not exceed 50% of the production expenses of the film, so that the tax assistance currently may not exceed 14.58335% of such expenses.

Furthermore, this tax credit can never exceed an amount of $2 187 500 per film or per series.

❑ Eligibility of certain television productions

The June 12, 2003 Budget Speech introduced changes to the list of categories of eligible productions and categories of excluded productions stipulated by the Regulation.

More specifically, it was announced, in particular, that variety shows and magazines with six or more episodes broadcast per month, with the exception of such shows intended for children under age 13, would be excluded from eligibility for recognition as a Québec film.

Similarly, television magazines dealing essentially with construction, renovation, decoration, gardening, horticulture, sports, recreation, hunting, fishing, motor vehicles, fashion, cosmetics, cooking, wine or other alcohol, tourism and travel, or a combination of such topics, were excluded from eligibility for recognition as a Québec film.

The Regulation will be amended to withdraw variety shows and magazines with six or more episodes broadcast per month from the list of productions excluded from eligibility for recognition as a Québec film.

In addition, the Regulation will be amended to withdraw television magazines dealing essentially with construction, renovation, decoration, gardening, horticulture, sports, recreation, hunting, fishing, motor vehicles, fashion, cosmetics, cooking, wine or other alcohol, tourism and travel, or a combination of such topics, from the list of productions excluded from eligibility for recognition as a Québec film.

These amendments will apply in relation to a television series regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed, is filed with the Société de développement des entreprises culturelles (SODEC), regarding an episode or a show that is part of such series, after the day of this Budget Speech.

❑ Restriction on eligible labour expenditure regarding a docu-soap

For a production to be recognized as a Québec film for the purposes of the tax credit for Québec film and television production, the Regulation stipulates that it must satisfy criteria concerning in particular the type of production, the persons who occupy certain specific creative positions and the percentage of the production expenses incurred in Québec.

More specifically, the Regulation stipulates that a film must belong to a category of eligible productions and not belong to a category of excluded productions to be recognized as a Québec film. Moreover, the Regulation was updated in the June 12, 2003 Budget Speech and changes were made to the categories of productions eligible for and the categories of productions excluded from eligibility for the tax credit for Québec film and television production.

Accordingly, reality television productions were excluded from eligibility for this tax credit. Briefly, an audiovisual production that creates a situation (a place, a group of individuals, a theme) that is filmed and turned into a montage, constitutes a realtity television production.

However, a show that presents the reality or daily life of individuals in their real context, for the purpose of studying the experience of such individuals is, rather, considered a documentary in the “docu-soap” sub-category.

Moreover, the labour expenditures that give rise to the refundable tax credit for Québec film and television production cover all direct and indirect labour costs borne by an eligible corporation that produces a Québec film. Direct labour costs include, in particular, the wages and salaries paid to employees of the corporation and the fees paid to the artists and technicians in the course of making an eligible production.

In general, the main characters of a docu-soap are paid very little for their participation in the production. However, significant exceptions to this principle cast doubt on the distinction made between a docu-soap and reality television.

In this context, intervention is needed to better target the characteristics of docu-soaps regarding which support should be provided.

Accordingly, the legislation will be amended to exclude the amount of remuneration paid to the main characters of a docu-soap from the amount of the eligible labour expenditure.

This amendment will apply regarding a labour expenditure incurred after the day of this Budget Speech.

❑ Replacement of the name of an assistance fund

In general, the amount of any government assistance and any non-government assistance, other than an excluded amount, that a corporation received or is entitled to receive, must reduce the amount of labour expenditures or production expenses, as the case may be, for the calculation of the tax credit for Québec film and television production to which a corporation is entitled.

The amounts excluded for the purposes of this rule are essentially amounts paid by public organizations in the cultural field such as SODEC, the National Film Board and Telefilm Canada. Moreover, the amount of assistance from the Fonds de diversification de l'économie de la Capitale is also an excluded amount of assistance for the purposes of the tax credit for Québec film and television production.

The name of this fund has been changed.

Consequently, the legislation will be amended to stipulate that an amount of assistance paid by the Fonds de développement économique de la région de la Capitale-Nationale is an excluded amount of assistance for the purposes of the tax credit for Québec film and television production.

This change will apply regarding an amount received or receivable from the Fonds de développement économique de la région de la Capitale-Nationale on or after January 29, 2002.

2.11.2 Refundable tax credit for sound recording production

The refundable tax credit for sound recording production covers labour expenditures attributable to services supplied in Québec for the production of eligible sound recordings. This tax credit is equal to 29.1667% of the amount of eligible labour expenditures, which are limited, however, to 45% of the eligible production expenses of the sound recording. Tax assistance can accordingly reach 13.125% of the production expenses of the sound recording. In addition, the tax credit, for an eligible sound recording may in no event exceed $43 750.

In general, an eligible sound recording, for the purposes of this tax credit, must have been produced by a recognized record company or by a corporation that concluded an agreement with a recognized record company, for the use of the sound recording, and satisfy the Québec content criteria stipulated in a point scale. Furthermore, 75% of the amounts paid for the production of the sound recording must be paid to persons who resided in Québec or to corporations with an establishment there.

Moreover, the sound recording must not be part of an excluded category, i.e. it must not have been made for purposes of recording or teaching a technique, or for corporate purposes, nor must it be a talking book, a collection of sound effects or a component of a game.

Essentially, the tax credit for the production sound recordings was set up to support the Québec recording industry and encourage its consolidation, by fostering the development of Québec songs.

To ensure that this objective is achieved, a new eligibility criterion will be added for the purpose of certifying a sound recording as an eligible sound recording.

More specifically, the regulations will be amended to stipulate that a sound recording must be produced for commercial purposes in order to give rise to the tax credit for sound recording production.

For greater clarity, this new commercialization requirement is in addition to the other eligibility criteria otherwise stipulated in the regulations.

This amendment will apply regarding a sound recording for which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed in relation to such sound recording, is filed with SODEC after April 30, 2004.

2.12 Relief regarding the 1% ceiling applicable to the deduction for entertainment expenses

As a general rule, the deduction allowed a taxpayer who incurs expenditures for food, beverages and entertainment in order to earn business or property income (entertainment expenses), is limited to 50% of the amount spent in this regard.

It was announced in the June 12, 2003 Budget Speech that the tax legislation would be amended to further limit deductible entertainment expenses to an amount equal to 1% of a taxpayer's sales for the year, with relief measures as necessary for certain sectors.[80]

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[80] Business whose activities require regular travel and sales agencies.

Building and securing the loyalty of a client base often depends on the fact that a professional or entrepreneur participates in social or community activities held in its region, which may give rise to substantial entertainment expenses, and such activities are likely to also lead to targetted outings organized with potential or current clients.

In this sense, this measure, applied to every taxpayer regardless of his sales for a year, makes no allowance for the fact that small entrepreneurs participate in such activities in the same way as taxpayers with much larger businesses. However, the sales of such small businesses are lower and accordingly the application of the 1% ceiling imposes a more restrictive limit.

Accordingly, so that the ceiling applicable to entertainment expenses does not constitute a greater restriction, for example for professionals who carry on their business alone or in small partnerships or for micro-businesses, a relief measure will be implemented, consisting of a decreasing ceiling. Moreover, relief will also be applied to the ceiling applicable regarding other businesses, the rate being raised from 1% to 1.25%.[81]

More specifically, henceforth the ceiling will depend on annual sales and will be calculated according to the following parameters.

TABLE 1.10

NEW CEILING ON ENTERTAINMENT EXPENSES

Sales[1]	Ceiling
$32 500 or less	2%
Between $32 500 and $52 000	$650
$52 000 or more	1.25%

(1) In the case of a taxation year or a fiscal year, as the case may be, shorter than 365 days, the applicable ceiling for the purposes of calculating the deduction for entertainment expenses will be determined on the basis of sales calculated proportionally as if the taxation year or fiscal year, as the case may be, were 365 days long.

For greater clarity, this ceiling will apply in relation to a taxpayer's total sales. Accordingly, in the case of a taxpayer whose sales are $52 000 or more, all his deductible entertainment expenses will be limited to 1.25% of his sales.

The following table shows the impact of the new ceiling on entertainment expenses, depending on various sales levels.

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[81] These relief measures will also apply in the Québec sales tax system for purposes of calculating the input tax refunds a registrant that is an SME can claim regarding these same entertainment expenses.

TABLE 1.11

IMPACT OF THE NEW CEILING ON ENTERTAINMENT EXPENSES
(Dollars)

Sales	Current ceiling (1%)	New ceiling
10 000	100	200
25 000	250	500
30 000	300	600
32 500	325	650
40 000	400	650[1]
50 000	500	650[2]
52 000	520	650
60 000	600	750
70 000	700	875
90 000	900	1 125
100 000	1 000	1 250

(1) Equivalent to a rate of 1.625%.

(2) Equivalent to a rate of 1.3%.

In addition, all the other application details of the deduction for entertainment expenses will continue to apply, including the exceptions relating to businesses whose activities require regular travel and sales agencies.

These changes will apply regarding a taxation year of a taxpayer or a fiscal year of a partnership, as the case may be, ending after the day of this Budget Speech.

However, for a taxation year or a fiscal year, as the case may be, that began before June 12, 2003, these changes will apply regarding entertainment expenses and sales, both calculated in proportion to the number of days of such taxation year or such fiscal year, as the case may be, after June 12, 2003.

Despite the preceding, the amount of the ceiling applicable for the purposes of calculating the deduction for entertainment expenses will be determined on the basis of annual sales. In this case, when the amount of the ceiling thus determined is $650, the same proportional calculation will also apply to such amount. The following table illustrates this situation for a taxation year or a fiscal year, as the case may be, extending from April 1, 2003 to March 31, 2004.

TABLE 1.12

TAXATION YEAR OR FISCAL YEAR BEGINNING BEFORE JUNE 12, 2003

Annual sales[1]	Applicable ceiling	Adjusted sales	Calculation of the ceiling
$35 000	$650	$35 000 x (293 ÷ 366) = $28 019	$650 x (293 ÷ 366) = $520
$60 000	1.25%	$60 000 x (293 ÷ 366) = $48 033	1.25% x 48 033 = $600

(1) If annual sales are $32 500 or less, the ceiling is 2%, corresponding to the ceiling that would also be determined regarding the adjusted sales.

2.13 Measures concerning the financial sector

2.13.1 Adjustments concerning international financial centres

The international financial centres (IFC) program is designed to encourage the establishment, development and maintenance within the territory of Ville de Montréal of businesses specializing in international financial transactions.

Briefly, an IFC is a business or part of a business established in Montréal, regarding which the operator keeps separate books and all of whose activities pertain to qualified international financial transactions (QIFT). Briefly, a QIFT is defined as a financial transaction carried out on foreign financial markets, or on domestic financial markets for foreign clients.

An IFC business can be carried on through a corporation or a partnership and the benefits stipulated in the legislation regarding the operations of an IFC include, in particular, a partial exemption from income tax, the tax on capital, the employer contribution to the Health Services Fund (HSF) and the compensatory tax on financial institutions.

To refocus the IFC program on its initial objectives, many adjustments will be made to the measures affecting the program:

— the program will focus more strongly on financial corporations and their subsidiaries;

— a formula to facilitate and standardize the determination of the portion of an IFC business of an operator that engages in commercial activities in addition to the operation of an IFC will be introduced;

— the exemption from the compensatory tax on financial institutions that some corporations operating an IFC enjoy will be eliminated.

Moreover, adjustments will also be made to cap and further focus the tax assistance granted to IFC employees toward employees who participate directly in executing QIFTs.

❑ Broader definition of financial corporation

According to the current legislation, a financial corporation means a bank, a savings and credit union, a loan corporation, a trust company, a corporation dealing in securities, an insurance corporation or any other similar financial or insurance institution, liable for tax under Part IV or VI of the *Taxation Act* or that would be liable for such tax if it had an establishment in Québec or carried on a business there.

Because of the reorganization of certain features of the IFC program announced in this Budget Speech, the definition of the expression "financial corporation" will be broadened such that a corporation that is the exclusive property of one or more financial corporations is also recognized as a financial corporation for the purposes of the *Act respecting international financial centres*.

This change will apply as of the day of this Budget Speech.

❑ Transactions between persons not at arm's length

Under the current rules, a transaction that takes place between the operator of an IFC and a person with which it is not at arm's length may generally constitute a QIFT.[82]

To further channel the tax assistance granted under the IFC program towards the program's objectives, the legislation will be amended so that, unless one of the parties to the transaction is a financial corporation, a transaction that takes between an operator of an IFC and a person with which it is not at arm's length does not constitute a QIFT.

For greater clarity, the notion of non-arm's length relation will be administered by the MRQ. In addition, the specific exclusion of certain QIFTs when the parties are not at arm's length will be maintained regarding QIFTs in which one of the parties to the transactions is a financial corporation.

Moreover, for the purposes of this rule, if one of the parties to the transaction is a partnership, it will be considered a corporation all of whose voting shares belong to the members of the partnership at the end of the fiscal year, in proportion to the distribution among them of the income or loss of the partnership for the year.

This amendment will apply regarding a transaction carried out after the day of this Budget Speech.

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[82] Subject to the specific exclusion of certain QIFTs when such a relation exists.

❑ Elimination of the compensatory tax on financial institutions

The Québec sales tax (QST) system, like the goods and services tax (GST) system, provides for a tax exemption in respect of most financial services. This measure was stipulated because of the problems posed by the application of a sales tax on financial services.

Given the structure of this sector, the price of services offered is often implicit and is reflected, for example, in the difference between the interest rate demanded of borrowers and the yield granted depositors, insured parties and annuitants. Although it is theoretically possible to establish these implicit prices, the operation is extremely complex in practice and, as a result, no country has succeeded in effectively applying a sales tax on financial services.

However, unlike the GST system, the QST system grants the suppliers of financial services a refund of the tax paid on inputs acquired for the purposes of carrying out their services. This refund is intended to maintain the competitiveness of Québec's financial institutions and to discourage them from shifting some of their activities (legal services, computer services, etc.) outside the province because of the increase in costs arising from the application of the QST.

However, in order to maintain neutrality toward other economic sectors and take into account the cost to the government of this refund, financial institutions are subject to a compensatory tax that is intended to hold their overall tax burden constant in relation to what it was prior to the reform of the QST.

Under the existing legislation, an operator of an IFC that is a financial institution enjoys an exemption from the compensatory tax regarding its business or part of its business that is an IFC. However, this exemption from the compensatory tax that IFC operators enjoy arises more from the calculation mechanism used to determine the compensatory tax on financial institutions than from established fiscal policy regarding IFCs.

Accordingly, to more fully achieve the objectives of the tax holiday granted to IFCs, the legislation will be amended to eliminate the exemption from the compensatory tax on financial institutions enjoyed by an operator of an IFC that is a financial institution.

This change will apply regarding a taxation year ending after the day of this Budget Speech. However, for a taxation year that includes the day of this Budget Speech, this amendment will apply in proportion to the number of days of such taxation year following that day.

❑ Introduction of a mechanism for determining the IFC portion of a business

As mentioned above, an IFC is a business or part of a business that can be carried on by a corporation or a partnership. Accordingly, it frequently happens that the same entity encompasses activities that are eligible for the IFC program and others that are not. That is why, in particular, the rules regarding IFCs require separate books to be kept regarding the activities attributable to the operations of an IFC.

Despite the requirement that separate books be kept, it can be difficult at times to adequately allocate the expenditures attributable to each business or to each part of a business, such as general and administration expenses, carried on by an operator of an IFC. This problem also exists regarding the determination of the paid-up capital attributable IFC operations for the purposes of the exemption from the tax on capital.

Lastly, this problem can become more complex if an IFC is operated through a partnership belonging to corporate partners, of which a part of the business they carry on directly is also eligible for the IFC program.

In other words, this type of accounting difficulty is of such a nature that it can create uncertainty for operators of IFCs, in addition to needlessly adding to the burden of auditors, both at the operator of an IFC and at the MRQ.

Accordingly, to overcome the difficulties raised by the allocation of expenses and expenditures among the various businesses or parts of businesses of an operator of an IFC, and to facilitate the determination of the portion of paid-up capital attributable to the operations of an IFC, if applicable, a formula will be introduced to determine the IFC part of the business of an operator.

• Specific case of corporations

• Income tax

More specifically, the portion of income of an operator of an IFC attributable to the operation of an IFC that may give rise to a deduction in the calculation of the taxable income of the operator of the IFC, for a taxation year, will correspond to the result obtained from the following formula:

$$\text{Adjusted net income} \times \frac{1}{2}\left[\frac{\text{Gross income from the operations of an IFC}}{\text{Total gross income}} + \frac{\text{Salaries attributable to the operations of an IFC}}{\text{Total salaries}}\right]$$

- **Tax on capital**[83]

The portion of paid-up capital of an operator of an IFC attributable to the operation of an IFC that may give rise to a deduction in the calculation of the paid-up capital of the operator of an IFC, for a taxation year, will correspond to the result obtained from the following formula:

$$\text{Paid-up capital} \times \frac{1}{2}\left[\frac{\text{Gross income from the operations of an IFC}}{\text{Total gross income}} + \frac{\text{Salaries attributable to the operations of an IFC}}{\text{Total salaries}}\right]$$

- **Specific case of a participation in a partnership**

  - **Income tax**

If an IFC is operated by a partnership, the portion of income attributable to the operation of the IFC, in relation to such IFC operated by such partnership, for a year, will be determined in the same way as described above for corporations. However, the amount of income attributable to the operation of the IFC for a fiscal year will be established at the partnership level, as though it were a separate person, and the share of each partner in such amount will be determined in proportion to the distribution among them of income or loss of the partnership for the fiscal year.

  - **Tax on capital**

If a corporation is a member of a partnership, whether or not the latter operates an IFC, the portion of the paid-up capital of the corporation attributable to the operation of an IFC for a taxation year will be determined at the level of the corporation, and will correspond to the result obtained from the following formula:

$$\text{Paid-up capital} \times \frac{1}{2}\left[\frac{\left[\text{Gross income from the operations of an IFC} + \text{Share of gross IFC income from a partnership}\right]}{\left[\text{Total gross income} + \text{Share of total gross income of a partnership}\right]} + \frac{\left[\text{Salaries attributable to the operations of an IFC} + \text{Share of IFC salaries attributable to a partnership}\right]}{\left[\text{Total salaries} + \text{Share of total salaries of a partnership}\right]}\right]$$

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[83] Whether or not it carries on its IFC business through a partnership, the corporation that holds an interest in a partnership must determine its paid-up capital attributable to the operation of an IFC in accordance with the formula described under the heading "Specific case of a participation in a partnership".

- **Applicable rules and definitions**

The definitions and rules described below will apply regarding the above formulas.

"Paid-up capital": the paid-up capital of the corporation otherwise determined.[84]

"Share of IFC salaries attributable to a partnership": the proportion, for the fiscal year of the partnership that coincides with the taxation year or that ends in it, represented by the ratio of the corporation's share of the income or loss of the partnership for such fiscal year to the total income or loss of the partnership for such fiscal year, of the salaries of the partnership eligible for the exemption from the employer contribution to the HSF.

"Share of total salaries of a partnership": the proportion, for the fiscal year of the partnership that coincides with the taxation year or that ends in it, represented by the ratio of the corporation's share of the income or loss of the partnership for such fiscal year to the total income or loss of the partnership for such fiscal year, of the total salaries of the partnership.

"Share of gross IFC income from a partnership": the proportion, for the fiscal year of the partnership that coincides with the taxation year or that ends in it, represented by the ratio of the corporation's share of the income or loss of the partnership for such fiscal year to the total income or loss of the partnership for such fiscal year, of the gross income of the partnership from the operations of an IFC.

"Share of total gross income of a partnership": the proportion, for the fiscal year of the partnership that coincides with the taxation year or that ends in it, represented by the ratio of the corporation's share of the income or loss of the partnership for such fiscal year to the total income or loss of the partnership for such fiscal year, of the total gross income of the partnership.

"Gross income from the operations of an IFC": the gross income of the operator of an IFC, for the taxation year, from the operations of an IFC.

"Total gross income": all the gross income of the taxpayer or of the partnership, as the case may be, for the fiscal year.

"Adjusted net income": the net tax income of the operator of an IFC otherwise determined for the taxation year, excluding the following items:

— any dividend income;

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[84] For greater clarity, the paid-up capital of the corporation otherwise determined includes, if applicable, the items from a partnership.

- any interest income net of interest expenditures directly attributable thereto, with the exception of interest income from the carrying out of a QIFT;
- any net capital gain;
- any other income giving rise to a deduction in the calculation of taxable income of the operator;

and reduced by the amount of any charitable donation made by the operator during the taxation year.

“Salaries attributable to the operations of an IFC”: the salaries of the operator of an IFC, for the fiscal year, eligible for the exemption from the employer contribution to the HSF.

“Total salaries”: all the salaries of the taxpayer or of the partnership, as the case may be, for the fiscal year.

Moreover, for the purposes of these definitions, the expression “gross income” means the gross income of the taxpayer or of the partnership, as the case may be, excluding any dividend income, any capital gain or loss and any interest income, except for net interest income from the carrying out of QIFTs, i.e. the interest income from the carrying out of QIFTs net of the interest expenditures directly attributable thereto.

Lastly, when the above definitions refer to the share of a member of a partnership in an amount for a fiscal year, such share must be determined in proportion to the distribution among the partners of the income or loss of the partnership for the fiscal year.

• Application date

This change will apply to a taxation year or to a fiscal year beginning after the day of this Budget Speech.

However, in the case of a corporation whose fiscal year begins after the day of this Budget Speech and that is a member of a partnership, to determine the portion of paid-up capital of the corporation attributable to the operation of an IFC, for such taxation year, the attributes of the partnership must be taken into consideration, whether or not it operates an IFC, regardless of the date when the fiscal year of such partnership began.

❑ Partial income tax holiday for Canadian IFC employees

Briefly, an employee of an IFC, other than a foreign specialist, who, during a taxation year, devotes more than 75% of his duties to the operations of the IFC, may claim, in calculating his taxable income for such taxation year, a deduction equal to 37.5% of the income from his employment with the IFC for such year and attributable to the period covered by an eligibility attestation issued regarding him by the Minister of Finance.

To focus the government assistance granted to the financial sector more specifically on the duties that contribute directly to the development of international financial transactions, a change will be made to better target eligible duties for the purposes of this deduction. In addition, a ceiling on the deduction will be introduced.

More specifically, the legislation will be amended so that only an employee of an IFC more than 75% of whose duties with the IFC are devoted to the execution of QIFTs is eligible for the partial tax holiday for IFC employees.

For greater clarity, the duties of an employee are devoted to the execution of QIFTs when they are directly attributable to the specific transactional process of a given QIFT. Accordingly, duties that do not satisfy these requirements, such as corporate management, finance, accounting, taxation, legal affairs, marketing, communications, reception, secretariat, courrier, computer systems, human and physical resources management, will not constitute eligible duties for the purposes of the deduction for IFC employees.

Moreover, the legislation will also be amended to introduce a ceiling on the amount of the deduction an IFC employee may claim annually. More specifically, the amount of the deduction an IFC employee, other than a foreign specialist, may claim for a year may not exceed $50 000, on an annual basis.

These changes will apply as of the day of this Budget Speech, in relation to the salary of an IFC employee attributable to a period following that day.

However, an IFC employee who loses his entitlement to the partial income tax holiday for IFC employees because of this amendment may still, regarding 2004, obtain an eligibility attestation from the Minister of Finance covering a period prior to the day of this Budget Speech during which he was employed by a corporation or a partnership operating an IFC and satisfied the other conditions otherwise applicable.

Lastly, for greater clarity, the income of such IFC employee from his employment with a corporation or a partnership operating an IFC and relating to a period ending no later than the day of this Budget Speech, may be covered by a deduction even though it was received by the IFC employee after the day of this Budget Speech, if the other conditions otherwise applicable were satisfied.

❑ Tax administration

Under the existing legislation, the operator of an IFC enjoys an exemption from the employer contribution to the HSF, in relation to the salary he pays to employees of his IFC business for whom he holds an IFC employee certificate issued by the Minister of Finance, and which is attributable to a period covered by an annual eligibility attestation issued by the Minister of Finance regarding such employees (regular IFC employee).

An operator of an IFC also enjoys an exemption from the employer contribution to the HSF, in relation to the salary he pays to his other employees and which is not attributable to a period covered by an annual eligibility attestation issued by the Minister of Finance, but which nonetheless is attributable to the employee's duties devoted to the operations of an IFC (non-regular IFC employee).

Moreover, while the tax legislation requires that anyone carrying on a business or who is required to deduct, withhold or collect an amount under a tax law keep books, the MRQ has noted, in the course of tax audits carried out with operators of IFCs, that the books kept by the latter included incomplete or faulty information that does not make it possible to adequately determine the amount of salaries attributable to non-regular IFC employees that may give rise to the exemption from the employer contribution to the HSF.

To correct this situation and ensure the integrity of the tax system, while reassuring operators of IFCs regarding the amount of the exemption from the employer contribution to the HSF they may claim, the legislation will be amended to stipulate that the operator of an IFC must keep books containing relevant information that makes it possible to easily check the portion of the salary of a non-regular IFC employee attributable to the employee's duties devoted to the operations of the IFC.

In this regard, the MRQ will shortly release the information it considers necessary for the determination of the portion of the salary of a non-regular IFC employee attributable to his duties devoted to the operations of the IFC.

Moreover, a clarification will also be made to the legislation so that only the portion of the salary of the non-regular IFC employee that can clearly be identified with such books as attributable to the operations of an IFC is eligible for the exemption from the employer contribution to the HSF.

These changes will apply in relation to the salary of a non-regular IFC employee attributable to IFC operations and relating to a pay period beginning after June 30, 2004.

2.13.2 Elimination of the deduction for market makers

Briefly, the contributions that a market maker working on the floor of the Montréal Exchange makes to a reserve account for contingent losses are deductible from his income, subject to certain limitations.[85] However, any amount withdrawn by a market maker from a reserve account for contingent losses must generally be included in his income. This measure is intended to defer the taxation of a portion of a market maker's gains that are set aside in a reserve account in order to cover contingent losses.

Essentially, the objective of this measure is to increase the available capital of market makers in order to stimulate the secondary market for shares listed on the Montréal Exchange.

However, because in particular of various changes at the Montréal Exchange in recent years, the terms and conditions of this measure are now inadequate and the measure itself serves no purpose.

Accordingly, the deduction for market makers will be eliminated as of the day of this Budget Speech.

Furthermore, a market maker who, on the day of this Budget Speech, has a reserve account for contingent losses will be deemed to have ceased his market making activities on that same day.

In this regard, the legislation currently applicable regarding the cessation of activities of a market maker on the floor of the Montréal Exchange will apply regarding a market maker who is deemed to have ceased his market making activities because of this change. Accordingly, such market maker will be deemed to have withdrawn, immediately prior to the day of this Budget Speech, the balance of funds accumulated in his reserve account for contingent losses and this amount must be included in calculating his income.

However, to mitigate the possible impact of this change for a single taxation year, a market maker may elect to defer, to the taxation year following the one during which he is deemed to have ceased his activities because of the application of this change, the inclusion in calculating his income of an amount of not more than 50% of the amount he is deemed to have withdrawn from his reserve account for contingent losses immediately prior to the day of this Budget Speech.

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[85] According to the legislation, a reserve account for contingent losses consists of a separate account held in accordance with a written arrangement under which a clearing member undertakes to keep in such account the contributions that a market maker chooses to pay into it and under which the latter may withdraw amounts to offset losses resulting from his market making transactions.

2.14 Elimination of the five-year tax holiday for new corporations

The current tax legislation allows new corporations to enjoy, subject to certain restrictions and the applicable ceilings, an exemption from income tax, the tax on capital and the employer contribution to the HSF for the first five years of operation.

This measure, introduced in the May 1, 1986 Budget Speech, is designed to encourage the formation of new businesses and offer some recognition of the significant costs involved in starting up a business.

In a context of restoring order to public finances, a number of measures were introduced to tighten fiscal measures in the June 12, 2003 Budget Speech, including a 25% reduction in the level of tax assistance for new corporations. In addition, it was then announced that all business assistance measures would be reassessed to better target the governmernt's intervention in Québec's economy.

Accordingly, whether the five-year tax holiday for new corporations should be maintained must be decided considering its impact on the fairness, neutrality and simplicity of the tax system.

Because it only provides relief for the tax burden of new corporations and influences the decisions of businesses, in particular concerning corporate restructurings or the choice of an operating structure, the tax holiday affects the fairness and neutrality of the tax system.

To simplify the administration of the measure and ensure its integrity, the tax holiday includes certain restrictions that can limit eligibility for it. While they are simple, clear and have been known for many years, many requests to streamline these restrictions have been made over the years. The suggested changes in this regard would require the addition of complex rules to the current legislation, running counter to the objective of simplifying Québec's tax system.

In addition, many assistance measures have been introduced since the introduction of the tax holiday and are accessible to new corporations. For instance, a new manufacturing corporation established in a resource region of Québec may potentially benefit from the ten-year tax holiday for manufacturing SMEs in remote resource regions, in addition to a refundable tax credit for its processing activities.

Like the five-year tax holiday for new corporations, these assistance measures also have an influence on the fairness and neutrality of the tax system. However, because the encourage economic diversification in certain regions of Québec and concern sectors with significant development potential, they are a more effective intervention tool than this tax holiday.

Lastly, the government is committed, in particular by the reduction of the tax on capital announced in the June 12, 2003 Budget Speech, to reduce the tax burden of all businesses to improve their long-term competitiveness while simplifying administration of the tax system.

This commitment is confirmed, in this Budget Speech, with the increase to $1 million of the basic deduction in calculating paid-up capital that will reduce the burden of the tax on capital of the vast majority of businesses.

In this context and to make the tax system fairer, more neutral and more competitive for all businesses, the five-year tax holiday for new businesses will be eliminated as of the day of this Budget Speech.

Consequently, only corporations whose first taxation year begins prior to the day of this Budget Speech may benefit from the tax holiday, according to previously stipulated terms and conditions.

2.15 Elimination of the refundable tax credit for railway businesses

Like the situation in many economic sectors, railway businesses receive tax assistance consisting of a refundable tax credit. Essentially, the refundable tax credit for railway businesses was introduced to partially offset the tax burden imposed by the *Act respecting municipal taxation* on operators of such businesses, without affecting the finances of local governments.

It was announced in the June 12, 2003 Budget Speech that the tax assistance provided by this tax credit would be reduced by 25%. Consequently, the tax credit, whose rate was formerly 75%, is now 56.25% of the amount of eligible property taxes, for a taxation year, paid by a taxpayer or partnership.[86] More specifically, in the latter case, the tax credit that each member may receive is equal to 56.25% of his share of the property taxes paid by the partnership.

The relevance and effectiveness of the various refundable tax credits and tax holidays granted to businesses have been considered further and it appears that new corrective measures are necessary.

Consequently, the refundable tax credit for railway businesses will be eliminated regarding the eligible property taxes of a taxpayer, for a taxation year, or of a partnership, for a fiscal year, as the case may be, ending after the day of this Budget Speech.

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[86] Briefly, a taxpayer may, under certain conditions, claim the tax credit when he or a partnership of which he is a member carries on a railway business in Québec.

However, for a taxation year or for a fiscal year, as the case may be, that includes that day, this change will apply regarding the eligible property taxes calculated in proportion to the number of days of such taxation year or such fiscal year, as the case may be, that follow that day.

2.16 Limit on the deductibility of investment expenses

Under existing tax provisions, an individual may deduct, subject to certain conditions, the expenses incurred during a taxation year to earn income from a business or from property.

Unlike the running of a business, the holding of property, such as investments in stock, requires little time and attention on the part of the investor and, as a result, the income derived therefrom is generally considered as passive income, like a capital gain.

For an investor, the acquisition of investments achieves a dual objective, namely producing income from property and potentially realizing a capital gain. Consequently, the expenditures incurred to earn income from property can be linked not only to the earning of such income, but also to the potential realization of a capital gain.

Investment income is often earned on a very irregular basis so that, for a given taxation year, such income may be less than the expenditures incurred to earn such income. Since the deductibility of such expenditures is currently not limited to the income generated, an individual who, during a taxation year, incurred expenditures in excess of the revenue that was generated can thus reduce his income from other sources, such as employment income and income from a business, by such excess.

Accordingly, considering that part of the expenditures incurred to earn income from property is attributable to the earning of passive income and, furthermore, that it is important to achieve a degree of symmetry between the flow of income from the investments held and the expenditures incurred to earn such income, the deductibility of such expenditures incurred by an individual,[87] hereunder referred to as "investment expenses", will henceforth be limited to the income from such investments, hereunder referred to as "investment income", earned during a taxation year.

For greater clarity, the limitation on the deductibility of investment expenses will not apply to investment expenses incurred to earn active income, such as income from a business, or income from the rental of an asset.

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[87] For the purposes of this measure, an individual includes a trust.

❑ Investment expenses

The investment expenses considered in calculating the limit on the deductibility of investment expenses will be all the expenditures incurred to earn income from property, other than rental income, and will include in particular the following investment expenses that would otherwise be considered in calculating the cumulative net investment loss, were it not for this limitation:

- investment administration or management expenses;
- stock or securities custody expenses;
- fees paid to investment advisers;
- interest paid on borrowings contracted to acquire bonds, stock, or units of mutual fund trust;
- the portion of the loss of a partnership of which the individual is a specified member.

However, losses suffered on the rental of an asset will not be considered as investment expenses for the purposes of this measure.

❑ Investment income

The investment income considered in calculating the limit on the dedutibility of investment expenses will be all income from property and will include in particular the following investment income that would otherwise be included in the calculation of the cumulative net investment loss:

- taxable dividends of taxable Canadian corporations;
- interest from Canadian sources;
- the share of the income of a partnership of which the individual is a specified member;
- gross foreign investment income;
- taxable capital gains not eligible for the exemption on taxable capital gains;
- benefits received as a shareholder of a corporation;
- royalties from Canadian sources;
- accumulated income of a life insurance policy;

— income from a trust;

— income from property attributed to shareholders.

However, income from the rental of property will not be considered as investment income for the purposes of this measure.

❑ Calculation of deductible investment expenses for a taxation year

As mentioned above, investment expenses incurred to earn investment income during a given taxation year will be deductible up to the amount of investment income earned for such given taxation year.

Investment expenses that cannot be deducted in a given taxation year may be carried over against investment income earned in one of the three preceding taxation years or in any subsequent taxation year, provided the investment income earned in any of these years exceeds the expenses then deducted. The tax treatment of investment expenses will thus be similar to that applied regarding a capital loss.

❑ Other terms and conditions

The carry-over of investment expenses not deducted for a taxation year will be made in the calculation of income. Accordingly, an individual may claim a deduction, in calculating his income for a given taxation year, for an amount regarding investment expenses incurred in a prior or a subsequent taxation year and that could not be deducted because of the application of this measure.

If the non-deducted investment expenses were incurred in a taxation year subsequent to the given taxation year, the individual must then provide the MRQ, on a prescribed form, with a request to amend the tax return he filed for such given year.

Such request must be filed no later than the deadline for filing the individual's return for such subsequent year and the individual must, when he files the prescribed form, indicate the fraction of non-deducted investment expenses that must be applied to each of the taxation years preceding the year when the investment expenses were incurred but could not be deducted.

Lastly, an individual may claim in calculating his income, for the taxation year during which he died and for the preceding taxation year, the investment expenses not deducted because of the application of this measure and for which he did not claim a deduction in the calculation of his income for another taxation year.

❑ Application date

These changes will apply as of the day of this Budget Speech. However, regarding taxation year 2004, the limit on the deductibility of investment expenses will apply only regarding the portion of investment expenses in excess of investment income, calculated in proportion to the number of days following the day of this Budget Speech compared to the number of days of the taxation year.

2.17 Other changes

2.17.1 Recognition of new eligible public research centres

A taxpayer who carries on a business in Canada and, in particular, has R&D work carried out on his behalf in Québec by an eligible public research centre to which he is not related, can apply for a refundable tax credit corresponding to 35% of 80% of the amount paid to such centre.

In this regard, college technology transfer centres (CCTT), which come under CEGEPs in Québec's various regions and are accredited by the MEQ, are generally recognized as eligible public research centres for the purposes of the refundable tax credits for R&D. A research centre that is not a CCTT accredited by the MEQ can also be recognized as an eligible public research centre for the purposes of these same refundable tax credits.

First, the *Taxation Regulations* will be amended to recognize the Centre de photonique du Québec inc. and the Centre de technologie physique et de photonique de Montréal as eligible public research centres for the purposes of the refundable tax credits for R&D. Both these centres are research centres affiliated with the Centre collégial de transfert technologique en optique-photonique (OPTECH), which was accredited by the MEQ as a CCTT.

These two centres will be recognized regarding R&D carried out after August 25, 2002, under an eligible research contract concluded after that date.

Second, the notion of eligible public research centre will be changed to remove the reference to a college technology transfer centre since a research centre affiliated with a CCTT can be recognized as an eligible public research centre, regardless of the fact that a CCTT with which it is affiliated, such as OPTECH, is not itself recognized as an eligible public research centre by the ministère des Finances.

This amendment will apply as of the day of this Budget Speech.

2.17.2 Technical changes relating to tax benefits specific to the accelerated depreciation of certain assets

In the June 12, 2003 Budget Speech, the tax benefits specific to the accelerated depreciation of certain assets were eliminated. However, the rights of taxpayers who received these benefits regarding certain assets, or were in the process of receiving them, were protected.

Taxpayers who carry on a business in Québec could claim a depreciation deduction of 100% of the capital cost of certain assets used in Québec, regardless of the half-year rule and put-in-service rules generally applicable under the tax legislation.

Briefly, the assets that enabled a taxpayer to claim this accelerated depreciation deduction were manufacturing or processing equipment, foreign ore processing equipment and universal electronic data processing equipment (computer hardware). Intangible assets, such as a patent, license, know-how or trade secret, acquired in the course of a technology transfer, also gave rise to this deduction.

As part of the March 14, 2000 Budget Speech, this accelerated depreciation deduction was temporarily extended to optical fibre cables and coaxial cables acquired after this date and used in certain designated regions of Québec. Subsequently, as part of the March 29, 2001 Budget Speech, this extension was adjusted to include certain equipment relating to a microwave station.

In addition, taxpayers who carry on part of their business in Québec and part of it outside Québec could claim an additional deduction equal to 20% of the deduction for depreciation claimed for such assets for a taxation year. The amount thus obtained, for a year, was then multiplied by the proportion that existed, for such year, between the business done outside Québec by the taxpayer and the business done in Québec.

Lastly, in the March 25, 1997 Budget Speech, a supplementary deduction of 25% for depreciation was introduced. Accordingly, taxpayers who acquired assets otherwise eligible for the accelerated depreciation deduction could generally claim a supplementary deduction equal to 25% of the accelerated depreciation deduction claimed for a taxation year, thus bringing the total deduction to 125%. If a taxpayer did part of his business outside Québec during a taxation year, the amount of the supplementary deduction was divided by the proportion of his business done in Québec for such year, so that he derives full benefit from this supplementary deduction.

In the interests of integrity, the tax regulations stipulated a criterion regarding minimum use in Québec for assets enabling a taxpayer to claim these tax benefits. Briefly, the asset generally had to be used in Québec for a minimum of 730 days following the day it began to be used.

In addition, an asset leased by a taxpayer could, under certain conditions, enable him to claim these tax benefits. When the lessee and the lessor jointly elected, the lessee was deemed to have acquired the asset from the lessor.

Under the existing tax rules, if the lessee actually acquires the asset during the minimum period of 730 days described earlier, for instance by exercising an option to purchase stipulated in the rental contract, the lessee will lose the tax benefits as a result even if the minimum use in Québec criterion is otherwise satisfied.

In such a case, the taxpayer is deemed to have alienated the leased asset and to have acquired another (other asset). As a result of such deemed alienation, the criterion regarding use for a minimum period of 730 days cannot be satisfied because, under the existing rules, the other asset cannot be included in the same category, in particular because it is not a new asset at the time of such acquisition and because each asset eligible for these tax benefits is included in a separate category.

Accordingly, the tax rules will be changed so that the acquisition of an asset in the circumstances described above does not give rise to the loss of the tax benefits specific to the acquisition of certain assets. Accordingly, the other asset may be included in the same separate category as the leased asset deemed to have been alienated.

For greater clarity, the rules used to establish the proceeds for which the asset covered by the lease is deemed to have been alienated and the capital cost at which the other asset is acquired will not be changed.

The application of these changes will be declaratory.

2.17.3 Reduction for investments regarding customer accounts

A corporation that has an establishment in Québec at any time in a taxation year is subject to the tax on capital, calculated on the basis of the paid-up capital shown in its financial statements for the year, prepared in accordance with generally accepted accounting principles.

In general, the paid-up capital of a corporation that is not a financial institution is obtained by adding most of the amounts shown in the "shareholders' equity" and "long-term liabilities" sections of the balance sheet. To avoid double taxation, paid-up capital is reduced regarding investments made in other corporations, and a deduction is allowed for certain items. Lastly, a tax rate of 0.6% is applied to such paid-up capital.

The reduction for investments a corporation can claim is not a deduction. In general, the reduction for investments a corporation may claim in calculating its paid-up capital corresponds to the amount obtained by applying to paid-up capital determined before such reduction the proportion represented by the value of its investments in relation to the amount of its total assets.

More specifically, the amount of claims resulting from the sale of goods or the supply of services to another corporation (customer accounts) can give rise to the reduction for investments, when such claim has existed for more than six months.

Moreover, when a corporation applies a reserve for doubtful debts against its customer accounts, it generally does not have to bear the burden of the tax on capital regarding this asset covered by an allowance.[88]

Although a corporation does not have to bear the burden of the tax on capital regarding a customer account covered by a reserve, the current formulation of the *Taxation Act* nonetheless allows such corporation to claim a reduction for investments regarding such a customer account covered by a reserve.

More specifically, the existing provisions of the *Taxation Act* allow a corporation to claim a reduction for investments regarding the entire amount of an account receivable from another corporation (gross amount), even if a reserve for doubtful debts has been applied against this customer account.

Accordingly, the principle applied to establish the items to include in calculating paid-up capital (retained earnings and non-tax reserves), i.e. to include tax reserves, and only those, has not been retained in the provisions allowing a corporation to claim a reduction for investments regarding its customer accounts.

This is clearly an omission because the desired objective, in fiscal policy terms, when opening the reduction for investments to customer accounts, was to limit situations of double taxation of capital,[89] and not to grant a reduction for investments regarding an amount that has already given rise to a reduction in paid-up capital. Yet that is the result currently produced by the *Taxation Act* regarding reserves for doubtful debts deducted in calculating income under part I.

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[88] In this regard, it should be noted that the applicable rules concerning the tax on capital only recognize such a reserve if it is allowed under part I (income tax) of the *Taxation Act*, and provided it is deducted in calculating income under such part. These rules apply both to establish the allowances to include in the calculation of paid-up capital and to establish the total assets used in the formula for the reduction for investments.

[89] The changes in this regard were announced on June 29, 2000 in Bulletin d'information 2000-4.

In this context, the tax legislation will be clarified to prevent such a situation. More specifically, the *Taxation Act* will be amended to stipulate that the amount of customer accounts that enable a corporation to claim a reduction for investments must be reduced by the reserves for doubtful debts deducted regarding such customer accounts in calculating income under part I.

The application of this amendment will be declaratory.

2.17.4 Competence of Investissement Québec regarding refundable tax credits for the production of multimedia titles

An initial refundable tax credit relative to the production of multimedia titles (general component) was introduced in the May 9, 1996 Budget Speech. In the March 31, 1998 Budget Speech, a second tax credit applying specifically to corporations whose activities consist chiefly in producing such titles (specialized corporations) was introduced.

Essentially, the difference between the two tax credits lies in the fact that a corporation that wants to benefit from the general component must obtain the required attestations for each of the multimedia titles it produces, while a corporation that intends to claim the tax credit for specialized corporations must obtain the required attestations regarding all its activities. However, in either case, the attestations are issued by Investissement Québec.

Changes will be made concerning the qualification of production work done by a corporation that applies for a tax credit and concerning the determination of the date on which the final version is produced.

❑ Eligible production work

For the purposes of the general component and the tax credit for specialized corporations, the MRQ is responsible for determining whether the production work constitutes eligible production work, which notion is useful for establishing the eligible labour expenditure on which the calculation of the tax credit is based.

Moreover, the eligible production work in relation to an eligible multimedia title means the work done to carry out the stages of the production of such title during a period beginning at the start of the design stage and ending 24 months after the date of production of a final version, including activities relating to writing the screenplay of the title, the formulation of its interactive structure, the acquisition and production of its constituent elements and its computer development.

Investissement Québec is in a better position to assess these activities that clearly are part of the sectoral branch. Accordingly, a change designed to introduce, for the purposes of the general component and the tax credit for specialized corporations, a consultation power allowing the MRQ to refer to Investissement Québec to determine the eligibility of production work relating to a multimedia title was announced in the June 12, 2003 Budget Speech.

However, it must be admitted that such a consultation power is insufficient and that, in practice, since the MRQ does not have the information necessary for such qualification, the final decision will in any event be based on the information obtained from Investissement Québec. Consequently, the responsibility for determining what constitutes eligible production work in relation to a multimedia title will rest with Investissement Québec and the MRQ will no longer have to concern itself with the nature of the production work done by a corporation that claims a tax credit.

More particularly, the “eligible production work” in relation to a multimedia title will mean the production work that Investissement Québec indicates as such on the attestation issued regarding the title or the corporation claiming the tax credit, as the case may be.

Lastly, Investissement Québec must also set, pursuant to these new attributions, an application date that refers to the degree of advancement of the production work.

This change will apply to attestations issued to corporations by Investissement Québec after the day of this Budget Speech.

❑ Date of production of the final version

For the purposes of the tax credit for specialized corporations, the date of production of the final version of a multimedia title, essential for the purposes of determining eligible production work, is deemed to be the date on which the distribution of the title begins. Such date is then determined by the MRQ. For the purposes of the general component, such date is deemed to be the date that Investissement Québec has indicated, on the attestation issued regarding the title, as the date on which the distribution of the title begins.

Since the date of production of the final version of a multimedia title is useful only for delimiting the length of the eligible production work, the authority for determining what constitutes such work must include that of deciding the date of production of the final version of a multimedia title for the purposes of the tax credit for specialized corporations, following the example of what has already been stipulated for the purposes of the general component.

Accordingly, to adequately fulfil the duties that are now incumbent on it, Investissement Québec must necessarily identify the date of production of the final version of a multimedia title, both for the purposes of the general component and for the purposes of the tax credit for specialized corporations.

This change will apply to attestations issued to corporations by Investissement Québec after the day of this Budget Speech.

2.17.5 Transfer to Investissement Québec of responsibility for issuing eligibility attestations concerning the Mirabel Zone

The fiscal measures relating to the Montréal Foreign Trade Zone at Mirabel (Mirabel Zone) were eliminated in the June 12, 2003 Budget Speech. However transition rules protect the rights of taxpayers who, on that date, already benefited from such measures or were in the process of benefiting from them. Moreover, Bulletin d'information 2003-7 of December 12, 2003 contained clarifications to these transition rules regarding rules on acquisition of control and corporate restructurings.

Briefly, a corporation covered by these transition rules, that carries on an eligible business within the Mirabel Zone can continue to receive, for the period initially stipulated, tax benefits that consist, in particular, of an exemption from income tax, an exemption from the tax on capital and an exemption from the employer contribution to the HSF.[90]

The mandate of the Société de développement de la Zone de commerce international de Montréal à Mirabel (Development Corporation) is to make recommendations to the Minister of Finance to assist him in exercising his power to issue eligibility attestations associated with the tax benefits relating to the Mirabel Zone. It also monitors recognized businesses to ensure that they satisfy the eligibility conditions.

The elimination of the tax benefits relating to the Mirabel Zone calls into question the relevance of maintaining the responsibility of the Minister of Finance for issuing eligibility attestations associated with these tax benefits. The intervention of the Minister of Finance was justified in particular as part of his mandate to formulate fiscal policy, which intervention enabled him to act quickly, if need be, to make the required adjustments to the tax assistance measures relating to the Mirabel Zone.

In addition, the corporations that benefited from the transition rules mentioned above will continue to carry on their businesses for many more years in the Mirabel Zone.

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[90] A corporation that is a member of a partnership operating a business in the Mirabel Zone can also receive tax benefits relating to this zone.

In this regard, the support of an economic player like Investissement Québec would benefit them, since Investissement Québec's mission is to encourage investment in Québec. In addition, Investissement Québec administers certain eligibility conditions of a large number of fiscal measures.

In this context, all the administrative responsibilities currently assumed by the Minister of Finance concerning the tax benefits relating to the Mirabel Zone will henceforth be transferred to Investissement Québec.

Accordingly, as of the day following the day of this Budget Speech, Investissement Québec will be charged with issuing the eligibility attestations needed to receive these tax benefits. In addition, Investissement Québec will complete the analysis of recommendations submitted by the Development Corporation to the Minister of Finance no later than the day of this Budget Speech.

For greater clarity, corporations already located in the Mirabel Zone that benefit from the transition rules mentioned above and that want to obtain the eligibility attestations needed to receive these tax benefits must still send their application to the Development Corporation.

2.17.6 Clarification concerning a corporation's eligibility for the five-year tax holiday for new corporations

The *Taxation Act* allowed, up to today,[91] new corporations to benefit, subject to certain restrictions, from an exemption from income tax, the tax on capital and the employer contribution to the HSF for the first five years of operation.

Among other restrictions, the *Taxation Act* stipulated that a corporation was no longer eligible for the tax holiday for a taxation year if, at any time of the period covered by this holiday for such year or a prior year, it was the beneficiary of a trust.

Since the tax provision fails to specify the type of trust in question, it appears that the scope of this restriction could be much broader than what was expected when it was introduced. Accordingly, the simple fact, for a new corporation, of temporarily investing its surplus cash in units of a mutual fund trust would be enough to cause it to lose the tax holiday, because the corporation would then be the beneficiary of a trust.

Use of a trust as an investment vehicle should not influence the eligibility of a new corporation for the tax holiday since the restrictions relating to this holiday are designed rather to limit the possibilities for transferring activities within a group and ensuring that only new corporations receive the tax holiday.

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[91] In this regard, see subsection 2.14.

Consequently, a clarification will be made to the notion of eligible corporation to indicate that, for the purposes of the five-year tax holiday for new corporations, the restriction relating to a corporation that is the beneficiary of a trust does not apply to a corporation that is the beneficiary of a mutual fund trust.

This clarification will apply by declaration.

2.17.7 Correlative clarification to the tax holiday granted to an exempt corporation that carries out an innovative project in a designated site

Subject to certain restrictions, a corporation that carried out an innovative project in the information and communications technologies sector in an information technology development centre (CDTI) or a new economy centre (CNE), or in the biotechnology field in a biotechnology development centre (CDB), could receive, until today,[92] a five-year tax holiday regarding income tax, the tax on capital and the employer contribution to the HSF.

Among other restrictions, the *Taxation Act* stipulated that a corporation was no longer an exempt corporation for a taxation year if, at any time of the period covered by this holiday for such year or a prior year, it was the beneficiary of a trust.

Like the change made to the five-year tax holiday for new corporations, a clarification will be made to the notion of exempt corporation, for the purposes of the tax holiday granted to a corporation that carries out an innovative project in a designated site, to indicate that the restriction relating to a corporation that is the beneficiary of a trust does not apply to a corporation that is the beneficiary of a mutual fund trust.

This clarification will apply by declaration.

2.17.8 Public corporation status

The *Income Tax Act* includes a presumption to the effect that when a predecessor corporation was a public corporation immediately prior to a merger, the new corporation is deemed to have been a public corporation at the beginning of its first taxation year.

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[92] The tax holiday relating to the carrying out of an innovative project in a CDTI or in a CNE was eliminated in the June 12, 2003 Budget Speech. However, briefly, a corporation that obtained, prior to June 12, 2003 an eligibility attestation in relation to the carrying out of an innovative project, can continue to benefit from this tax holiday according to the previously stipulated terms and conditions. The elimination of the tax holiday relating to the carrying out of an innovative project in a CDB is dealt with in subsection 2.4.

While public corporation status, for the purposes of the *Income Tax Act*, is determined according to federal legislation and regulations, no Québec legislative or regulatory provision currently stipulates such a presumption.

Accordingly, to harmonize Québec's tax provisions relating to the determination of the status of a public corporation with those of the federal tax system, the *Taxation Regulations* will be amended to incorporate, into the notion of public corporation, the presumption relating to the status of a corporation resulting from a merger involving at least one public corporation.

The application of this amendment will be declaratory.

3. MEASURES CONCERNING CONSUMPTION TAXES

3.1 Zero-rating of children's diapers and items used to breast-feed or bottle-feed infants

As part of the government's family policy, a zero-rating measure will be implemented to provide specific assistance to parents of young children. Accordingly, the Québec sales tax (QST) system will be changed to zero-rate the supply of diapers and training pants designed especially for children, as well as the supply of items used for breast-feeding and bottle-feeding.

For greater clarity, the supply of plastic pants designed specially to be worn over washable diapers will also be zero-rated, as will the supply of absorbent linings and biodegradable paper products intended specifically as accessories for these diapers.

The expression "items used for breast-feeding" refers to breast pumps and their components, as well as nursing pads, nipple shields and other similar items designed especially to facilitate breast-feeding. This expression also refers to nursing bras, but not to other clothing designed for breast-feeding. As for the expression "items used for bottle-feeding", it refers to the bottles themselves and their components, including the disposable bags required for certain types of bottles.

This zero-rating measure will apply in respect of a supply made after the day of this Budget Speech.

3.2 Exemption of 9-1-1 emergency call services supplied to a government or a government body

The QST system provides for the exemption of 9-1-1 emergency call services if the recipient is a municipality, or a commission or other body established by the municipality. Because of this exemption, persons who make the supply of 9-1-1 emergency call services are not entitled to a refund of the QST paid in respect of the inputs acquired to supply these services.

The provision exempting 9-1-1 emergency call services was incorporated into the QST system in order to achieve, in this respect, the same result as that achieved by the goods and services tax (GST) system, under which 9-1-1 emergency call services are considered to be an integral part of law enforcement or fire safety services. Such law enforcement or fire safety services are exempt not only if they are supplied to a municipality, or a commission or other body established by the municipality, but also if they are supplied to a government, or a commission or other body established by the government.

Thus, under the current terms of the provision exempting 9-1-1 emergency call services contained in the QST system, the supply of such services would not be exempt if it was made to a government, or a commission or other body established thereby, with the result that the suppliers would be entitled to a full refund of the QST paid in respect of the inputs acquired for the making of this taxable supply.

Accordingly, the QST system will be changed to ensure that 9-1-1 emergency call services are also exempt if they are supplied to a government, or a commission or other body established thereby.

This change will apply in respect of 9-1-1 emergency call services supplied after the day of this Budget Speech.

3.3 Clarification concerning the exemption of municipal transit services

In the *Commission scolaire des Chênes* case,[93] the Federal Court of Appeal examined the application of the exempting provision for school transportation services supplied to students by school authorities. More specifically, the Court concluded that the amounts paid by the Québec government to school authorities to fund school transportation services did not constitute a subsidy, but rather a consideration paid by the government to acquire these services.

Since school transportation services were thus considered as being supplied to the government and not to students, they became taxable, contrary to the fiscal policy that clearly stipulated their exemption, thereby entitling school authorities to a full refund of the QST and GST paid in respect of the inputs acquired to supply these services. Moreover, although the services supplied to the government were taxable, no tax was payable in this respect because the government is not subject to payment of QST and GST. Therefore, none of the transactions were subject to tax.

It is important to ensure that the very broad scope given to the notion of consideration in this matter does not run counter to the fiscal policy as concerns the exemption of certain supplies made by other public service bodies receiving financial assistance from the government. This is why the provisions of the QST system relating to such supplies have been reviewed. This review has shown that one of these exempting provisions requires clarification.

The QST system provides for the exemption of municipal transit services supplied by transit authorities. Because of this exemption, transit authorities are not entitled to any refund of the QST paid in respect of the inputs acquired to supply these services.

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[93] Commission Scolaire des Chênes v. Canada, 2001 FCA 264.

In April 1996, it was announced that this exempting provision would be amended to specify the recipient of the municipal transit services, to ensure that the supply of such services made otherwise than directly to the public, in particular, in a context where they are subcontracted to a transit authority, is not exempt.[94]

However, in the same way as school authorities receive financial assistance from the government in respect of school transportation services, transit authorities are likely to receive financial assistance from the government for the municipal transit services they supply. In light of the conclusions of the Federal Court of Appeal in the *Commission scolaire des Chênes* case, the amendment announced in 1996 to specify the recipient of the exempt supply of municipal transit services could thus produce a result that runs counter to the fiscal policy.

Thus, to ensure that the objectives of the fiscal policy are met in this regard, the QST system will be changed to specify that the supply of municipal transit services is also exempt in cases where it is made to a government or government body which is exempted from paying this tax.

This change will apply in respect of a supply for which the total consideration becomes due after April 23, 1996, or is paid after this date without becoming due.

3.4 Simplification of the taxation of insurance premiums

As part of the government's policy on deregulation, the ministère du Revenu du Québec (MRQ) reviewed the taxation of insurance premiums in conjunction with business representatives in this sector of activity, for the purpose of eliminating or reducing the obligations imposed on these businesses while simplifying the administration of the tax on insurance premiums.

This review brought to light certain rules applicable to the tax on insurance premiums that needlessly increase the administrative burden of these businesses, and that can be changed without undermining the soundness of the taxation system.

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[94] News release 1996-035 of the Department of Finance of Canada and Bulletin d'information 96-2 of the ministère des Finances du Québec.

3.4.1 Decision to allow certain registrants to report tax on an annual or a quarterly basis

Currently, all mandataries who are required to register for the tax system governing insurance premiums in order to pay the MRQ the tax collected on the premiums they receive must report this tax by filing a monthly return, even if several of these mandataries pay only small amounts in this respect.

Also, in order to simplify the administration of the tax on insurance premiums for registrants who pay a relatively small amount of this tax in the course of a year, the tax legislation will be amended to allow them to choose between reporting this tax on an annual or a quarterly basis, depending on the amount of tax on insurance premiums they pay in the course of the twelve months preceding the month in which they make their choice.

Thus, registrants who remit less than $1 500 of tax on insurance premiums each year can choose to file their returns on an annual or a quarterly basis, while registrants who remit an amount that is equal to or higher than $1 500 but lower than $12 000 can file their returns on a quarterly basis. The terms and conditions governing the choice and modification of filing frequency will be specified by the MRQ.

This measure, which applies as of June 1, 2004, will allow some 55% of the mandataries of the tax system governing insurance premiums to report this tax by filing returns less frequently.

3.4.2 Elimination of the obligation for travel agents to remit the tax collected

Under the tax system governing insurance premiums, the tax applicable to a travel insurance premium must be collected at the same time as the premium and remitted to the MRQ, either by the travel agent when the premium is paid to him or her directly, or by the insurer when the premium has not been paid to the travel agent.

This obligation for travel agents to remit to the MRQ the tax on insurance premiums applicable to the premiums they receive and then pay to the insurers implies that they must register for the tax system governing insurance premiums and report this tax by filing returns on a regular basis.

However, it appears that travel agents have difficulty administering the applicable tax when they sell travel insurance, an ancillary product for which they merely apply across the board a price list prepared by the insurers. Furthermore, given that most travel insurance premiums are paid directly to insurers rather than to travel agents, the latter are currently required to be registered, even though the amount of the tax on insurance premiums they must pay to the MRQ are negligible.

In this context, the taxation of insurance premiums will be changed to eliminate the obligation of travel agents to remit to the MRQ the tax collected on the premiums they receive. The administrative burden of some 400 travel agents will thus be lightened, because they will no longer have to be registered under the system or report this tax by filing returns with the MRQ. This means that their sole responsibility in respect of the tax on insurance premiums will be to collect it at the same time as the premiums to which it applies, and to remit it to the insurers along with these premiums.

This change will apply in respect of tax on insurance premiums collected or to be collected by travel agents after May 31, 2004.

3.4.3 Elimination of the presumption relating to the individual insurance of persons which is incidental in a combined insurance contract

A presumption is provided for in the tax system governing insurance premiums whereby the individual insurance of persons which is incidental in an insurance contract encompassing personal insurance and damage insurance is deemed to be damage insurance.

Whereas initially, a similar presumption had been incorporated into this tax system to allow for the exemption of an individual insurance of persons which would have otherwise been taxable, the current presumption sometimes has the effect of making an individual insurance of persons which would have otherwise been exempt taxable, contrary to the objective of the fiscal policy, which is the exemption of such insurance.

The tax system governing insurance premiums will thus be changed to eliminate this presumption relating to the individual insurance of persons which is incidental in a combined insurance contract.

This change will apply in respect of combined insurance contracts concluded after May 31, 2004.

3.4.4 Refund of the tax on insurance premiums by persons having made an overcollection thereof

Under the tax system governing insurance premiums, a person who reimburses an insurance premium must also refund the tax he or she has collected in this respect. However, where a refund of the tax on insurance premiums is due without a refund of the premium, the person who has paid the tax on the insurance premiums must apply to the MRQ for the refund himself or herself by reason of the tax having been paid in error.

The fact that the tax system governing insurance premiums does not, where a premium is not refunded, allow for the person having made an overcollection of tax to refund the person who paid it himself or herself, is not only annoying for these persons, but also complicates the administration of the tax on insurance premiums for the MRQ.

Accordingly, the tax system governing insurance premiums will be changed to allow persons having made an overcollection of tax to refund the person who has paid it, even if the premium is not reimbursed.

This change will apply as of the day following the day of this Budget Speech.

3.5 Implementation of control measures in respect of raw tobacco

The tobacco tax system provides for several control measures targeting, in particular, the importing, storage, transport and sale of tobacco products in Québec. However, this system does not apply to leaf tobacco which is not processed beyond the drying stage, or to the fragments of such tobacco leaves (hereinafter referred to as “raw tobacco”).

Thus, even though raw tobacco is used as raw material for various tobacco products intended for consumption, the tobacco tax system contains no control measures applicable thereto.

In order for government authorities to reduce the supply of tobacco products to illegal sales networks, they must have the means they need to adequately monitor the marketing of both tobacco products and raw tobacco. Accordingly, the tobacco tax system will be changed to make some of the control measures provided for therein applicable to raw tobacco.

❑ Importers, storers and carriers

In certain circumstances, the tobacco tax system requires importers, storers and carriers of tobacco products to hold permits in order to carry on their activities in Québec.

In order that the movement of raw tobacco can be monitored, a similar permit will also be required for persons who bring, or cause to be brought, raw tobacco to Québec for the purposes of sale or delivery, as well as for persons who store or transport raw tobacco in Québec. All the terms and conditions relating to the permits currently required by the tobacco tax system will also apply to the new permits required in respect of raw tobacco.

Moreover, storers and carriers of raw tobacco will have, in terms of bookkeeping and the filing of returns, similar obligations to those already set out in the tobacco tax system for persons who must hold permits in order to store or transport tobacco products.

Lastly, persons who transport raw tobacco in Québec shall, like persons who transport packages of tobacco products intended for sale, draw up or cause to be drawn up, in respect of each load, a manifest or waybill for the raw tobacco transported, which shall be kept in the vehicle used to transport it.

☐ Prohibition of sale or delivery

Under the tobacco tax system, it is prohibited to sell or deliver tobacco products in Québec to a retail vendor who does not hold a registration certificate, or to a wholesale vendor who does not hold any of the required permits.

This system will be changed to ensure that the sale or delivery of raw tobacco in Québec to a purchaser who does not hold any of the permits provided for thereunder is also prohibited.

☐ Powers in matters of examination, inspection and seizure

The tobacco tax system grants certain persons different powers in matters of examination, inspection and seizure of tobacco products. Changes will be made to the system to ensure that the same powers can be exercised by these persons in respect of raw tobacco.

☐ Penal provisions

The penal provisions currently provided for by the tobacco tax system will also apply in respect of raw tobacco, with the necessary modifications.

☐ Application date

All these measures will come into force as of the date the bill giving effect to them is assented to.

4. OTHER MEASURES

4.1 Liability for the payment of duties, interest and penalties mentioned in a notice of assessment

Under existing tax legislation, a person must, before the 21st day of the month following the month during which a notice of assessment was mailed to him, pay the ministère du Revenu du Québec (MRQ) the duties, interest and penalties mentioned in the notice and not yet paid, regardless of whether an objection, an appeal or a summary appeal is under way in this regard. Taxpayers thus have 21 to 51 days to pay the amount claimed by the MRQ.

However, in the case of an individual or a trust, payments must be made within 45 days of the date of mailing of the notice of assessment, particularly if the assessment was issued under the *Taxation Act*.

Therefore, no interest has to be paid on all or part of the duties, interest and penalties mentioned in a notice of assessment if a person pays the MRQ all or part of these amounts within the time limits indicated previously.

Furthermore, the MRQ grants, administratively speaking, a grace period corresponding to the above-mentioned time limits of 21 to 51 days or 45 days, as the case may be, in regard to the computation of interest after a collection notice has been sent.[95]

The tax legislation will be amended to require persons to pay the MRQ the duties, interest and penalties mentioned in a notice of assessment and not yet paid as soon as the notice is sent by the MRQ, regardless of whether an objection, an appeal or a summary appeal is under way in this regard.

The tax legislation will also be amended so that persons do not have to pay interest on the amounts of duties, interest and penalties mentioned in a notice[96] sent to them by the MRQ regarding all or part of these amounts that they pay within the time limit indicated on the notice by the MRQ.

These changes will apply to notices sent by the MRQ after October 31, 2004.

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[95] Such situations arise when, following the issue of a notice of assessment, the MRQ sends a notice to a taxpayer requesting that he pay a balance owed to it.

[96] Irrespective of whether it is a notice of assessment or any other type of notice.

4.2 Harmonization of administrative provisions (standardized accounting)

In the federal Budget Speech of February 18, 2003, the federal Minister of Finance tabled, in the House of Commons, Supplementary Information, as well as a Notice of Ways and Means Motion to Amend the *Income Tax Act* and a Notice of Ways and Means Motion to Amend the *Excise Tax Act*. These measures concern, in particular, the harmonization of administrative provisions and are aimed at establishing an integrated set of rules for payment due dates, interest and penalties with a view to simplifying the application of the tax system (standardized accounting).[97]

In this regard, the Minister of Finance announced in the Budget Speech of March 11, 2003 that he would study the federal measures relating to the harmonization of administrative provisions and that decisions made in this respect would be announced at a later date. In addition, in the Budget Speech of June 12, 2003, it was announced that the announcements made regarding federal legislation and regulations in the Budget Speech of March 11, 2003 would be maintained.

The analysis of these measures, conducted in conjunction with the MRQ, is now complete. Given the specific features of Québec's tax system and the current administrative practices of the MRQ and considering that Québec's tax legislation and regulations already contain satisfactory provisions in many respects, only the following changes will be made to Québec's tax legislation.[98]

☐ Instalment threshold for cooperative corporations

The tax legislation will be amended to standardize the threshold below which a corporation does not have to pay income tax instalments for a taxation year.

In particular, the current threshold of $10 000 based on the taxable income of a corporation that grants dividends to its clients (cooperative corporation) in a taxation year will be abolished.

Consequently, such corporations will no longer be required to pay income tax instalments for a taxation year on the basis of the $1 000 threshold applicable to all corporations, which is based in particular on the amount of income tax payable for a given taxation year.

This change will apply to taxation years of cooperative corporations beginning after the day of this Budget Speech.

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[97] Department of Finance Canada, *The Budget Plan 2003*, p. 347.

[98] See subsection 4.1 for the changes made to Québec's tax legislation in regard to the payment deadline for and calculation of interest payable following the issue of a notice of assessment.

❑ Penalty applicable following the extension of a filing deadline

Under existing rules, the MRQ may extend any deadline for the filing of a return.

The tax legislation will be amended so that the late filing penalty applicable to a taxpayer who does not file his return by the extended deadline prescribed by the MRQ will be calculated on the basis of the normally required deadline.

This change will apply to filing deadline extensions granted after the day of this Budget Speech.

4.3 Increase in the rate of certain penalties

The existing tax legislation provides for various administrative penalties when a taxpayer, in circumstances equivalent to gross negligence, makes false statements or omits information in a return, a form or other document, particularly in regard to income tax, consumption taxes or source deductions.

In short, under the *Taxation Act*, a taxpayer is liable in such circumstances to a penalty equal to the higher of $100 or 50% of the amount not paid or overreimbursed, as determined by the Act. In the same circumstances, under the *Act respecting the Ministère du Revenu*, a taxpayer incurs a penalty equal to 25% of the amounts not paid or overreimbursed as a result of a false statement or an omission in a document made or filed for the purposes of a tax law or a regulation made under such law.

On September 24, 1998,[99] it was announced that a penalty correlative to the revocation of a document issued by a government department or organization was being introduced. This penalty is equal to 25% of the value of the tax benefit a taxpayer or the members of a partnership unduly received because of making a false statement or a serious omission in a document filed in relation to a tax measure of which the government department or organization administers certain aspects.[100]

To standardize the provisions pertaining to penalties, and discourage behaviour that leads to non-compliance, the *Act respecting the Ministère du Revenu* will be amended to raise to 50% the rate of the penalty provided for in cases where a false statement or an omission is made in a document made or filed for the purposes of a tax law or a regulation made under such law.

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[99] Bulletin d'information 98-6.

[100] This penalty has not yet been incorporated into the tax legislation and will become effective on the date the bill giving effect to it is assented to.

In addition, the rate of the penalty correlative to the revocation of a document issued by a government department or organization because of false statements or serious omissions will be increased to 50%.

These changes will become effective on the date the bill giving effect to them is assented to.

4.4 Introduction of a fee policy by Investissement Québec

The mission of Investissement Québec, which was created in 1998, is to contribute to Québec's economic growth by supporting businesses in all regions in regard to their development.

As part of its mandate, Investissement Québec sees to the promotion and administration of several tax measures, an activity that generates considerable costs. For example, Investissement Québec is required to issue, for the purposes of various tax credits based on growth in total payroll, eligibility certificates to corporations that qualify for these tax credits and annual attestations in respect of employees who work for such corporations.

To reduce the government's contribution to these operating costs, Investissement Québec will introduce a fee policy which, when fully implemented, will allow these costs to be self-financing. Costs related to the administration of tax measures will thus be charged to corporations that receive services and benefit from these measures.

4.5 Logbook for an automobile made available to an employee

The tax legislation stipulates that, when an employer or a person to whom the employer is related makes an automobile available in a given year to his employee or to a person related to the employee, the latter must include, in calculating his income from an office or employment for the year, a reasonable amount representing the value of the stand-by charge for the automobile and an amount in respect of the benefit relating to the automobile's operating costs paid by the employer.

As a rule, the value of the stand-by charge for the automobile is equal to an amount corresponding to 2% of the cost of the automobile for the employer or to two thirds of the cost of leasing the automobile for each 30-day period that the automobile is made available to the employee.

However, the value of the stand-by charge for the automobile may be reduced, particularly if the distance travelled with the automobile was mainly in connection with the office or employment of the employee or in the course of such office or employment and if the number of kilometres logged by the automobile for the employee's personal use is less than 1 667 kilometres on average per 30-day period (i.e. less than 20 004 kilometres per year).

The value of the benefit relating to the operation of the automobile generally corresponds to 17 cents per kilometre logged by the automobile for the employee's personal use, except if such employee requests that the value of the benefit be equal to 50% of the value of the stand-by charge for the automobile.

An employer who makes an automobile available to one of his employees is responsible for determining the value of the benefits that the employee may include in calculating his income in respect of the automobile. This value must also be used to calculate several of the contributions the employer must pay[101] and the amount of sales taxes payable in regard to such benefits.

The employer must also keep a logbook on the use of automobiles that are made available to his employees, in order to distinguish between kilometres travelled for personal purposes in the course of a year and those travelled by employees within the framework of their office or employment.

However, if an employer does not record this information in a logbook himself, he will not be able to calculate precisely the value of the benefits that should be included in the calculation of his employees' income in respect of an automobile made available to them and, therefore, the amount of employer contributions and taxes payable.

To ensure that employers are able to fulfil their obligations and that duties payable are collected, the tax legislation will be amended to stipulate that employees must provide their employer with a copy of the logbook for an automobile made available to them by such employer.

In particular, when an employer or a person to whom the employer is related makes an automobile available to an employee or to a person related to the employee in a given year, the latter will have to provide the employer with a copy of the logbook he keeps for the automobile, no later than the tenth day after:

- the end of the year, when the automobile is made available at the end of the year to the employee or to a person to whom he is related; or
- the end of the period in which the automobile was made available to the employee or to a person to whom he is related, if the period ends before the end of the year.

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[101] In particular, contributions to the Health Services Fund, the Québec Pension Plan and the Commission des normes du travail.

The employee will have to record in the logbook the number of days during the year that the automobile was made available to him or to a person to whom he is related and the number of kilometres travelled each day with the automobile for the employee's personal use and in connection with his office or employment or during the course of such office or employment.

These changes will apply as of the 2005 taxation year.

The tax legislation will also be amended to stipulate that if an employee does not provide his employer, within the prescribed time limit, with the logbook for an automobile made available to him or to a person to whom he is related by his employer or by a person related to his employer, he will incur a penalty of $200.

4.6 Extension of the obligation to file an information return regarding certain contractual payments

Since 2002, Québec government departments and budget-funded bodies[102] have been required to file an information return regarding amounts they pay to a person or a partnership under certain contracts.

In short, any department or budget-funded body that pays a person or a partnership, directly or indirectly, an amount other than an excluded amount[103] during a calendar year in payment of the price stipulated in a business, service, transportation or mandate contract, a contract for both the delivery of a service and the sale or rental of property[104] or a contract relating to the consumption of food or beverages must file an information return for that amount using the form prescribed by the MRQ.

However, an information return does not have to be filed if the total of such amounts, other than an excluded amount, paid to a person or a partnership during a calendar year is less than $1 000.

This measure was introduced to encourage taxpayers to better comply with the tax laws since it has been shown that taxpayers comply more readily with the tax legislation when information returns are filed regarding amounts paid to them.

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[102] The bodies listed in Schedule 1 of the *Financial Administration Act*.

[103] An excluded amount is, in particular, an amount paid to a government or to a person exempt from income tax under the *Taxation Act* or an amount regarding which another information return must be filed using the prescribed form under Québec tax regulations.

[104] Except for a contract whose price represents, wholly or almost wholly, the value of property sold or rented under the contract.

To continue pursuing this objective, the obligation to file an information return regarding certain contractual payments imposed on government departments and budget-funded bodies will be extended to other Québec government bodies and enterprises.

In particular, the tax regulations will be amended to stipulate that the government bodies and enterprises listed in schedules 2 and 3 of the *Financial Administration Act* will be subject to the same rules as departments and budget-funded bodies regarding the obligation to file, using the prescribed form, an information return in respect of amounts paid, directly or indirectly, to a person or a partnership during a calendar year in payment of the price stipulated in a contract contemplated by this measure.

For greater clarity, whenever an information return must be filed regarding a contractual payment made by a government body or enterprise to a person or a partnership, the person or partnership will have to provide the entity with his identification number, namely, his social insurance number if the person is an individual, or, in all other cases, his Québec enterprise number or his identification number, as assigned by the MRQ.

Furthermore, government bodies and enterprises will have to forward the information returns to the MRQ no later than the last day of February of each year with respect to the preceding calendar year. They must also provide each person or partnership regarding which a return has to be filed for a given year with two copies of the portion of the return that concerns it, no later than the date on which the return must be filed with the MRQ.

This change will apply to contractual payments that government bodies and enterprises listed in schedules 2 and 3 of the *Financial Administration Act* pay to a person or a partnership during a given calendar year after 2004.

4.7 Making mandataries of the State subject to the payment of interest and penalties in the event of non-compliance with tax obligations

In accordance with the principal of State immunity, which is enshrined in the *Interpretation Act*, no law may affect the rights of the State and its mandataries unless they are expressly covered by that law.

Generally speaking, this principle is waived in the tax legislation in order to make mandataries of the State, when they act in their capacity of employers or carry out certain activities, subject to the tax obligations that normally apply in such circumstances.

Essentially, employers' tax obligations consist in deducting at source, from remuneration paid, the prescribed amount of income tax and the employee's contribution to the Québec Pension Plan, and in paying various employer contributions based on salaries. These amounts must be remitted to the Minister of Revenue at a very specific frequency and according to very specific terms and conditions. In addition, various slips and a *Summary of Source Deductions and Employer Contributions* must be filed annually.

As for the tax obligations that apply when mandataries of the State carry out certain activities, they stem mainly from the mandate conferred by the tax legislation for the collection of various duties and taxes payable.

Failure to fulfil a tax obligation under the existing tax legislation and regulations may lead to the application of interest and penalties.

However, the MRQ generally considers that mandataries of the State are protected by the principle of State immunity when they do not fulfil their tax obligations properly and that, accordingly, they cannot be required to pay the interest and penalties that usually apply in such cases.

To ensure that mandataries of the State who fail to meet their tax obligations are liable to the same consequences as any other person subject to such obligations, the tax legislation will be amended to stipulate that mandataries of the State—including legal persons who enjoy the rights and privileges of a mandatary of the State pursuant to the act under which they were established or an act that governs them exclusively—may be required to pay interest and penalties when they fail to comply with their tax obligations in their capacity of employer or mandatary in regard to the collection of the various duties and taxes payable under Québec's tax legislation.

This measure will apply to all instances of non-compliance following December 31, 2004.

5. FEDERAL LEGISLATION AND REGULATIONS

5.1 Federal Budget Speech of March 23, 2004

On March 23, 2004, the federal Minister of Finance tabled, in the House of Commons, Supplementary Information, as well as a Notice of Ways and Means Motion to Amend the *Income Tax Act* and a Notice of Ways and Means Motion to Amend the *Excise Tax Act*. In this respect, Québec's tax legislation and regulations will be amended to incorporate some of the measures announced. However, the measures will be adopted only after the approval of any federal law arising from these notices of motion or the adoption of any federal regulation arising from the supplementary information, taking into account technical amendments that might be made prior to the approval of the law or the adoption of the regulation. These measures will apply as of the same dates as for the purposes of federal income tax.

5.1.1 Measures concerning the Income Tax Act

☐ Measures retained

Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the measures relating to:

1. the disability supports deduction (BR 1);[105]
2. the inclusion, in the calculation of the refundable medical expense supplement, of an amount equal to 25% of the amount determined for the disability supports deduction (BR 2);
3. the carry-forward period for non-capital losses and the unused foreign tax credit (BR 9 a) and b));
4. fines and penalties (BR 11), except in regard to the exception respecting penalty interest imposed under the *Excise Act*, the *Air Travellers Security Charge Act* and the GST/HST portions of the *Excise Tax Act*;
5. the general anti-avoidance rule (BR 18), subject to the features described in detail below;
6. affiliated persons rules and trusts (BR 19 and RB 20);
7. patronage dividends (BR 21);

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[105] The references in parentheses correspond to the number of the budget resolution in the Notice of Ways and Means Motion to Amend the *Income Tax Act* tabled on March 23, 2004.

8. the changes relating to taxpayer-requested adjustments (BR 22 c) and d) and BR 23);

9. to the trading of charitable donations by corporations (BR 24);

10. the introduction of a deduction for Canadian Forces personnel and police (BR 26);

11. the incidental amendment concerning talking textbooks for the purposes of the non-refundable medical expense tax credit;[106]

12. the changes relating to capital cost allowance rates for computers and data network infrastructure equipment.[107]

❑ Measures not retained

Some measures have not been retained because they do not correspond to the features of Québec's tax system or because Québec's tax system does not contain corresponding provisions. This applies to the measures on the education tax credit (BR 4), the small business deduction limit (BR 5 and BR 6), the carry-forward period for non-capital losses (Part IV of the *Income Tax Act*) and life insurers' Canadian life investment losses (BR 9 a) and c)), the mineral exploration tax credit (BR 10), taxpayer-requested adjustments (BR 22 a) and b)) and notices served on a financial institution.[108]

Other measures have not been retained because Québec's tax system is satisfactory in this regard. This applies to the measures relating to dependants' medical expenses (BR 3) and the measures relating to the refundable SR&ED investment tax credits—expenditure limit (BR 7 and BR 8).

❑ Subsequent announcements

• Income trusts

In short, the federal measures concering income trusts (BR 12 to BR 14) follow from a study on the impact of income trusts on government revenue and are aimed, therefore, at establishing a set of rules for limiting the level of investments that a pension fund can make in a business income trust.

The Québec government has undertaken a similar study in recent months. In this context, the ministère des Finances will analyze the federal measures relating to income trusts, and the decisions made in this regard will be announced later.

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[106] Department of Finance Canada, *The Budget Plan 2004*, page 327.

[107] Department of Finance Canada, *The Budget Plan 2004*, pages 332 to 335.

[108] Department of Finance Canada, *The Budget Plan 2004*, pages 348 and 349.

Mutual funds: taxation of taxable Canadian properties gains distributions

In brief, the measures proposed concerning the taxation of taxable Canadian properties gains distributions (BR 15 to 17) are aimed at reducing the disparity between the tax system that applies to non-residents who invest in taxable Canadian properties through Canadian mutual funds and the system that applies to persons who invest in such properties directly.

The decision as to whether to retain the federal measures concerning the taxation of taxable Canadian properties gains distributions will be announced later.

Registered charities

The decision as to whether to retain the measures proposed on the regulatory reform respecting registered charities (BR 25) will be announced later.

❑ Clarification of the scope of the general anti-avoidance rule

The *Taxation Act* and the *Act respecting the Québec sales tax* contain a rule known as the general anti-avoidance rule that is designed to prevent taxpayers from benefiting from an avoidance transaction or from a series of avoidance transactions. Under this rule, a transaction constitutes an avoidance transaction if it results directly or indirectly in a tax benefit, unless the transaction was undertaken primarily for bona fide purposes.

However, even though it may be concluded that a transaction constitutes an avoidance transaction, the general anti-avoidance rule does not apply unless it is demonstrated that the transaction or series of transactions leads to a misuse or an abuse of the provisions of the Act, read as a whole.

When the general anti-avoidance rule applies to a specific situation, the tax consequences to the taxpayer are determined as is reasonable in the circumstances so as to deny the tax benefit that results, directly or indirectly, from the transaction or series of transactions.

Recently, the scope of the general anti-avoidance rule provided for by the *Income Tax Act* was limited solely to the provisions of the Act. In two decisions handed down by the Tax Court of Canada, it was ruled that the general anti-avoidance rule does not apply to regulations adopted by the Government of Canada.

Insofar as legislative provisions are harmonized, it is common to refer to Canadian jurisprudence in interpreting the *Taxation Act* and the *Act respecting the Québec sales tax*. Since the general anti-avoidance rule provided for by Québec legislation is one of the measures designed to harmonize Québec laws with federal legislation, it is likely that a court having jurisdiction in Québec will also reach, on the basis of the above-mentioned decisions, the same conclusion in regard to this rule.

However, the aim of the general anti-avoidance rule is to prevent abuse in the application of the tax system. In this context, its application must be extended to the *Regulation respecting the Taxation Act*, the *Act respecting the application of the Taxation Act* and the *Regulation respecting the Québec sales tax*, since the tax legislation and the regulations adopted under it form an indissoluble whole and, if taken in isolation, cannot provide a complete and coherent portrait of the applicable tax system.

Therefore, to ensure the integrity of the tax system, the legislation will be amended to clarify the scope of the general anti-avoidance rule. In particular, this rule will be used to eliminate tax benefits that arise from a transaction or a series of transactions resulting in a misuse or an abuse of the provisions of the *Taxation Act,* the *Act respecting the application of the Taxation Act* and the *Regulation respecting the Taxation Act*, read as a whole, or of the *Act respecting the Québec sales tax* and the *Regulation respecting the Québec sales tax*, read as a whole.

This change will apply as of the day of this Budget Speech.

5.1.2 Measures concerning the Excise Tax Act

The measures concerning the *Excise Tax Act* were not retained because the Québec sales tax system does not grant municipalities refunds of the tax paid in regard to property and services acquired for the purpose of making their exempt supplies.

5.2 Limitation period for tax debts

The tax legislation provides for a 5-year limitation period for Québec tax debts. On March 4, 2004, the federal Minister of Finance announced that federal tax legislation would be amended in order to apply a 10-year limitation period to federal tax debts.[109]

The tax legislation will be amended to extend the limitation period for Québec tax debts to 10 years, like the limitation period announced by the federal government.

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[109] Federal Department of Finance news release 2004-017.

This new 10-year limitation period will apply to tax debts that become payable after the day of this Budget Speech and to tax debts payable on the day of this Budget Speech. However, the amount of time already elapsed since the date on which a tax debt is payable, prior to that day, and that was taken into account in calculating the 5-year limitation period will also be considered in calculating the new 10-year limitation period.

For greater clarity, this change consists merely in extending the limitation period for tax debts from 5 years to 10 years and does not affect any other application details of Québec's tax legislation, particularly those regarding reasons for interrupting the limitation.

In addition, Québec's tax legislation will be harmonized in regard to the reasons for interrupting or suspending a limitation period that are expressly introduced into the federal legislation and that are not already provided for by Québec legislation.

5.3 Federal changes applicable to the natural resource sector

On March 3, 2003, a news release was issued by the federal Minister of Finance, along with a technical paper[110] briefly outlining changes proposed to improve the natural resource taxation structure.

In the Budget Speech of March 11, 2003, it was announced that the decision on whether the measures proposed by the federal government would be retained would be the subject of a future announcement.

Subsequently, on June 9, 2003, a news release[111] was issued by the federal Minister of Finance, along with a technical paper, a Notice of Ways and Means Motion and explanatory notes. These documents set out the three changes proposed for the natural resource sector.

The first change concerns the reduction of the federal income tax rate on income earned from resource activities, which will gradually fall from 28% to 21%. The second change involves two components, namely, the deduction of mining royalties and taxes paid to the Crown, including the provinces, and the elimination of the existing 25% resource allowance. The third change concerns the introduction of a new tax credit for qualifying mineral exploration expenditures.

Transitional arrangements are also proposed, in particular for the tax treatment of the Alberta royalty tax credit.

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[110] Federal Department of Finance news release 2003-013.

[111] Federal Department of Finance news release 2003-030.

The decision as to whether the changes proposed by the federal government will be incorporated into Québec's tax system is discussed below for each of these measures.

❑ Reduction of the income tax rate on income earned from resource activities

Québec's tax system does not provide for a higher taxation rate for corporations that operate in the natural resource sector. Indeed, Québec's taxation structure does not provide for any special treatment in this regard for the resource sector, which is subject to the same rate as other sectors.

In this context, the tax system currently applicable in Québec is satisfactory, and no change is needed for harmonization purposes.

❑ Gradual replacement of the 25% lump sum resource allowance

Replacing the existing 25% lump sum resource allowance with a deduction for mining royalties and taxes actually paid would generally increase the tax burden of corporations concerned by this change.

By way of indication, the effective rate of duties payable under the *Mining Duties Act* is often equal to 4.2% of annual earnings.

In addition, as mentioned above, Québec's tax system does not provide for a higher taxation rate for corporations that operate in the natural resource sector. Therefore, the negative effects of these changes cannot be offset by reducing the income tax rate for these corporations to that granted other corporations.

Furthermore, it does not seem desirable to maintain, beyond the transitional period proposed by the federal government, the current system that provides for a lump sum allowance rather than a deduction for mining royalties and taxes actually paid. Beyond this transition period, corporations that operate in the natural resource sector will no longer have to calculate their income from resources in order to determine the amount of this 25% lump sum allowance for the purposes of federal income tax, as they are required to do throughout the transition period.

In this context, it seems desirable to defer the negative effects of replacing the 25% lump sum allowance with a deduction for mining royalties and taxes actually paid, especially since such a deferral would not make the tax system more complex.

Therefore, Québec's tax system will be harmonized with that of the federal government by replacing the 25% lump sum allowance with a deduction for mining royalties and taxes actually paid, but only as of 2007. Consequently, the rules that currently apply, namely, the 25% lump sum allowance and the non-deductibility of mining royalties and taxes, will continue to apply under the Québec tax system until the end of 2006. In other words, the 25% lump sum allowance will not be gradually replaced by a deduction for mining royalties and taxes actually paid.

Lastly, a decision on whether to compensate, as of 2007, corporations operating in the natural resource sector for the negative effects of these changes will be made later, taking into account the overall tax system applicable to this sector, particularly the rates of royalties provided for by the Québec system. If necessary, appropriate adjustments will be made.

❑ Introduction of a new tax credit for qualifying mineral exploration expenditures

The measure concerning the new tax credit for qualifying mineral exploration expenditures will not be retained. Québec's tax system is satisfactory in regard to assistance for mineral exploration, particularly because it provides for a more generous tax credit than the federal tax system does.

For greater clarity, the federal tax credit will have to be included in calculating income if it is not applied against exploration expenditures. However, this federal tax credit will not reduce eligible expenses for the purposes of the Québec tax credit for resources.

This treatment, in addition to avoiding possible circularity problems in calculating federal and Québec tax credits, will make it possible to maintain the assistance provided by the Québec tax credit for resources at its current level.

Lastly, for the purposes of the *Mining Duties Act*, this federal tax credit will have to be included in calculating annual earnings if it is not applied against exploration expenditures.

❑ Transitional arrangements for the tax treatment of the Alberta royalty tax credit

Since a decision was made to defer until 2007, without transitional rules, the harmonization of Québec's tax system with that of the federal government in regard to the replacement of the 25% lump sum allowance with a deduction for mining royalties and taxes actually paid, the transitional arrangements for the tax treatment of the Alberta royalty tax credit will not be retained.

Until the end of 2006, mining royalties and taxes actually paid will remain non-deductible, while as of 2007, they will be deductible in full. Therefore, there is no reason why the Alberta royalty tax credit should receive special treatment, and it will thus be fully taxable as of 2007.

6. INTRODUCTION OF AN ADDITIONAL REGISTRATION DUTY IN RESPECT OF VEHICLES WITH LARGE-DISPLACEMENT ENGINES

To improve the overall energy efficiency of vehicles in Québec and help reduce polluting emissions and greenhouse gases, an additional registration duty will be implemented for certain vehicles (hereinafter referred to as "vehicles concerned") where they are equipped with an engine with a displacement of 4 litres or more.

This additional registration duty, payable on a yearly basis, will be $30 for the vehicles concerned with an engine displacement of 4 litres, and will increase by $10 for each decilitre of engine displacement exceeding 4 litres, up to a maximum of $150, which will be the amount of the duty applicable to all vehicles concerned with an engine displacement of 5.2 litres or more.

For the purposes of this additional registration duty, the vehicles concerned will be "passenger vehicles," "commercial vehicles" with licence plates bearing the prefix "F" or "FZ," and "motor homes," within the meaning of the *Regulation respecting road vehicle registration* (Regulation).

For greater clarity, the additional registration duty will not apply to taxis or vehicles, other than commercial vehicles or motor homes, with licence plates bearing the prefix "F" or "FZ." Thus, for example, the additional registration duty will not apply to ambulances, tow trucks or snowblowers.

Lastly, vehicles of which the model year is prior to 1995 will not be subject to this additional registration duty.

Moreover, individuals and organizations exempt from paying the fees required to retain the right to operate a vehicle,[112] and those for which fees of $3 are payable,[113] including foreign diplomats, the Government of Québec, school boards and hospital centres, will not be subject to payment of the additional registration duty applicable in respect of vehicles with large-displacement engines.

The following table shows how this additional registration duty increases with engine displacement.

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[112] Sectons 98 and 122 of the Regulation.

[113] Section 123 of the Regulation.

TABLE 1.13

AMOUNTS OF THE ADDITIONAL REGISTRATION DUTY BY ENGINE DISPLACEMENT

Displacement (in litres)	**Duty (in dollars)**
4	30
4.1	40
4.2	50
4.3	60
4.4	70
4.5	80
4.6	90
4.7	100
4.8	110
4.9	120
5	130
5.1	140
5.2 or more	150

This new duty will be payable over and above the fees required to operate a vehicle after December 31, 2004, and the fees required to retain the right to operate a vehicle where the payment period for that vehicle begins after October 31, 2004.

This measure will generate income of approximately $50 million per year, which will be paid to the Corporation de financement des infrastructures locales du Québec.

Section 2

Expenditure Measures

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1. REFORM OF FINANCIAL SUPPORT FOR FAMILIES AND WORKERS

As part of the introduction of Child Assistance and the Work Premium, a budgetary adjustment is required in order to reflect the conversion of certain transfer programs in the expenditure budget into refundable tax credits. The refundable tax credits are deducted from budgetary revenue.

More specifically, as of January 1, 2005:

— the Family Allowance transfer program will be replaced and expanded through a new refundable tax credit, namely, Child Assistance;

— the Parental Wage Assistance (PWA) transfer program will be replaced and expanded through a new refundable tax credit, i.e. the Work Premium;

— the allowance-for-handicapped-children transfer program will be converted into a refundable tax credit, i.e. support for handicapped children, but its current features will be retained.

The changes will reduce the expenditures of the ministère de l'Emploi, de la Solidarité sociale et de la Famille by $132 million in 2004-2005 and by $528 million in 2005-2006.

TABLE 2.1

IMPACT ON THE FINANCIAL FRAMEWORK OF THE REFORM OF FINANCIAL SUPPORT FOR FAMILIES AND WORKERS
(millions of dollars)

	2004-2005	2005-2006	2006-2007
Impact on revenue			
• Child Assistance[1]	-425	-1 449	-1 022
• Work Premium	-20	-128	-269
• Support for handicapped children	-10	-41	-41
Total impact on revenue	***-455***	***-1 618***	***-1 332***
Impact on expenditure			
• Family Allowance	119	474	475
• Allowance for handicapped children	10	41	41
• PWA program	3	13	26
Total impact on expenditure	***132***	***528***	***542***
Net impact on financial framework	**-323**	**-1 090**	***-790***

[1] Amount of the new refundable tax credit, net of the impact of the elimination of the tax credit for dependent children and the tax reduction in regard to families.

2. FIGHT AGAINST POVERTY

2.1 Investments of $329 million in housing

In regard to social housing, the *2004-2005 Budget Speech* announces additional investments of $329 million over three years:

— $256 million to build 16 000 low-rent or affordable-rent housing units;

— $39 million to adapt the housing of 6 010 people with disabilities;

— $34 million in rent supplements granted to 5 276 households to mitigate the impact of the housing shortage.

In all, the additional investments will assist more than 27 000 households.

The government intends to achieve, as rapidly as possible, the objective of building 16 000 housing units, according to the capacity of its partners in the sector. To that end, the Société d'habitation du Québec will be authorized to invest the amounts announced as the projects are submitted by its partners.

TABLE 2.2

GOVERNMENT INVESTMENTS IN HOUSING AND NUMBER OF HOUSEHOLDS ASSISTED

	Total investments (millions of dollars)	**Number of households assisted**
Build 16 000 low-rent or affordable-rent housing units	256	16 000
Adapt the housing of 6 010 people with disabilities	39	6 010
Grant rent supplements to 5 276 households to mitigate the impact of the housing shortage	34	5 276
Total	**329**	**27 286**

2.1.1 Build 16 000 low-rent or affordable-rent housing units

The government will complete the construction of 16 000 social housing units. To make these investments, the Société d'habitation du Québec will have the additional appropriations required to:

- build 9 911 housing units provided for in its plan;
- increase by 5 420 the number of additional housing units to be built.

Considering the 669 housing units already delivered, 15 331 new housing units will be built and made available to households in the next few years, i.e.:

- 6 459 housing units under the AccèsLogis Québec program;
- 8 872 housing units under the Affordable Housing Québec program.

TABLE 2.3

NUMBER OF LOW-RENT OR AFFORDABLE-RENT HOUSING UNITS
(number of housing units)

	Housing units delivered to date	2004-2005 Budget			Total
		Housing units under way	Additional housing units	Total	
AccèsLogis Québec	471	3 800	2 659	6 459	6 930
Affordable Housing Québec					
• Social and community component	77	3 307	2 121	5 428	5 505
• Private component[1]	121	2 804	640	3 444	3 565
Sub-total	*198*	*6 111*	*2 761*	*8 872*	*9 070*
Total	**669**	**9 911**	**5 420**	**15 331**	**16 000**

[1] Including the "Kativik" and "Nord-du-Québec" components.

AccèsLogis Québec

The AccèsLogis Québec program enables housing bureaus, housing cooperatives, and non-profit organizations to implement community housing with a minimal contribution from their communities. The housing is offered to low-income or modest-income households, which pay reduced rent varying from, for example, $350 to $500 a month for a heated, two-bedroom housing unit.

Affordable Housing Québec

The Affordable Housing Québec program has two components:

The social and community component is designed particularly for housing cooperatives, non-profit organizations and housing bureaus. The housing built is offered to low-income or modest-income households at the same conditions as under the AccèsLogis Québec program, namely, reduced rent varying from, for example, $350 to $500 a month for a heated, two-bedroom housing unit.

The private component is designed mainly for private-sector promoters and is of benefit essentially to middle-class households. The maximum monthly rent, which varies according to the type of housing, is set by the municipality. The rent is, for example, around $700 to $800 a month for a heated, two-bedroom housing unit.

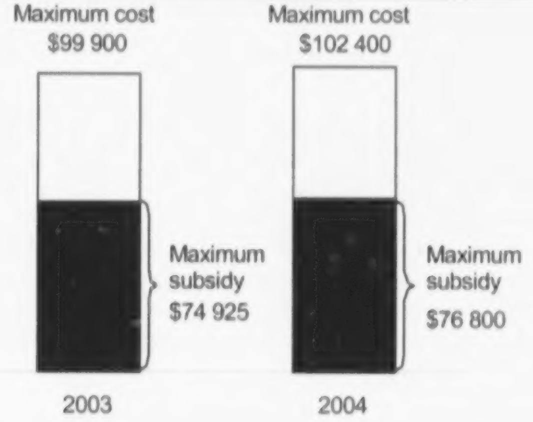
❑ Increase in subsidies under the AccèsLogis Québec and Affordable Housing Québec programs

The boom in the construction market over the last few months has led to an increase in the implementation costs of projects in the AccèsLogis Québec and Affordable Housing Québec programs. To make it possible to adequately consider the implementation costs of projects, the government has increased in recent months the maximum implementation costs recognized under these two programs.

For example, the subsidy that can be granted for the construction of a two-bedroom housing unit has risen from $74 925 to $76 800, which will facilitate the implementation of projects.

CHART 2.1

AFFORDABLE HOUSING QUÉBEC
SOCIAL AND COMMUNITY COMPONENT
Maximum eligible subsidy for a two-bedroom housing unit in Montréal[1]



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[1] Project for families, people living alone or independent seniors.

To implement these measures, the appropriations of the ministère des Affaires municipales, du Sport et du Loisir earmarked for the Société d'habitation du Québec will be increased by $2.0 million in 2004-2005 and by $9.4 million in 2005-2006. The appropriations required for 2004-2005 will come from the Contingency Fund.

❑ Investments in all regions

Social housing investments will be distributed over all Québec regions. In particular, investments of approximately $30 million will be made in the resource regions in order to build low-rent or affordable-rent housing units according to the needs and vacancy rates of municipalities.

2.1.2 Adapt the housing of 6 010 people with disabilities

❑ Accelerate the processing of new applications and applications on the waiting list of the Residential Adaptation Assistance Program

The Residential Adaptation Assistance Program helps people with disabilities pay the cost of the work required to adapt their housing. The program covers the full cost of adaptations up to $16 000 for an owner, $8 000 for a tenant and $4 000 for a boarder. The average subsidy is $11 461 per person.

Given the growing need for adapted housing, more than 3 000 applications are on the waiting list of the Residential Adaptation Assistance Program. The waiting time for the processing of a new application can be several years.

To accelerate the processing of new applications and applications on the waiting list, the envelope of the Residential Adaptation Assistance Program will be increased by $28.8 million over three years in order to process an additional 2 550 applications.

TABLE 2.4

RESIDENTIAL ADAPTATION ASSISTANCE PROGRAM
Number of applications processed

	Per year	Three-year total
Current budget	330	990
Increased budget	1 180	3 540
Improvement	**850**	**2 550**

To that end, the appropriations of the ministère des Affaires municipales, du Sport et du Loisir earmarked for the Société d'habitation du Québec will be increased by $2.5 million in 2004-2005 and by $8.7 million in 2005-2006. The appropriations required for 2004-2005 will come from the Contingency Fund.

❑ Ensure the inspection and required repair of 3 460 elevating platforms

Since the start of the Residential Adaptation Assistance Program, the Société d'habitation du Québec has subsidized the installation of 3 460 elevating platforms. The platforms are similar to mini-elevators that can be installed inside or outside housing units, for people using a wheelchair.

In recent years, a number of accidents have occurred in using the platforms. To avoid them, the Société d'habitation du Québec has undertaken the systematic inspection of such platforms in order to take any appropriate corrective measures.

To ensure that the inspection and required repair of elevating platforms continue, the envelope for the program will be increased by $10 million over three years.

TABLE 2.5

RESIDENTIAL ADAPTATION ASSISTANCE PROGRAM
Inspection and repair of elevating platforms
in the next three fiscal years

Number of platforms	3 460
Additional budget (millions of dollars)	10
Average expense per inspection and repair (dollars)	2 890

To that end, the appropriations of the ministère des Affaires municipales, du Sport et du Loisir earmarked for the Société d'habitation du Québec will be increased by $0.5 million in 2004-2005 and by $3.3 million in 2005-2006. The appropriations required for 2004-2005 will come from the Contingency Fund.

2.1.3 Grant rent supplements to 5 276 households in order to mitigate the impact of the housing shortage

☐ The program of emergency assistance for homeless households and municipalities experiencing a shortage of rental units

The government recently announced a program of emergency assistance for homeless households and municipalities experiencing a shortage of rental units. The program is designed for households that may be homeless as of July 1, 2004.

The 2004 program of emergency assistance provides, in particular, for the granting of 3 700 rent supplements for one year:

- 1 200 rent supplements for households that may be homeless as of July 1, 2004;
- 2 500 rent supplements are set aside for current beneficiaries of a rent supplement ending on June 30, 2004.

This measure will enable households receiving the subsidy to devote no more than 25% of their income to housing. The program has a total envelope of $18.6 million.

To that end, the appropriations of the ministère des Affaires municipales, du Sport et du Loisir earmarked for the Société d'habitation du Québec will be increased by $4.0 million in 2005-2006.

Rent supplement

The rent supplement is applied through agreements signed with private owners who undertake to place the housing units in their buildings at the disposal of the households concerned. The rent supplement enables the households to pay rent representing 25% of their income in the calendar year preceding the signing of the lease. The Société d'habitation du Québec pays the owner the difference between the rent payable by the tenant and the actual rent stipulated in the lease.

❑ 1 576 households will receive rent supplements under the Résolution-Montréal, Achat-Rénovation and AccèsLogis Québec programs until March 31, 2008

In addition to the emergency measures, the Résolution-Montréal, Achat-Rénovation and AccèsLogis Québec programs provide for rent supplements for certain households over a five-year period. The supplements will enable the households to pay no more than 25% of their income on rent.

To prevent these households from losing their rent supplement in the coming years, the government also announced last spring that the rent supplements granted would be extended until March 31, 2008.

This measure represents an investment of $15.2 million. The assistance granted will benefit 1 576 households.

To ensure the funding of this measure, the appropriations of the ministère des Affaires municipales, du Sport et du Loisir earmarked for the Société d'habitation du Québec will be increased by $2.0 million in 2004-2005 and by $3.3 million in 2005-2006. The appropriations required for 2004-2005 will come from the Contingency Fund.

TABLE 2.6

INVESTMENTS OF $329 MILLION FOR HOUSING – 2004-2005 BUDGET

(millions of dollars)

	2004-2005	2005-2006	2006-2007	Total	Number of households
Build 16 000 low-rent or affordable-rent housing units					
• AccèsLogis Québec program	51.7	72.4	72.4	196.5	6 930
• Affordable Housing Québec program	23.2	18.2	18.2	59.6	9 070
Sub-total	*74.9*	*90.6*	*90.6*	*256.1*	*16 000*
Adapt the housing units of 6 010 people with disabilities					
• Reduce the waiting list of the Residential Adaptation Assistance Program	9.6	9.6	9.6	28.8	2 550
• Ensure the inspection and required repair of 3 460 elevating platforms	3.0	4.0	3.0	10.0	3 460
Sub-total	*12.6*	*13.6*	*12.6*	*38.8*	*6 010*
Grant rent supplements to 5 276 households in order to mitigate the impact of the housing shortage					
• Program of emergency assistance for homeless households and municipalities experiencing a rental housing shortage	14.6	4.0	0.0	18.6	3 700
• 1 576 households will receive subsidies under the Résolution-Montréal, Achat-Rénovation and AccèsLogis Québec programs	2.2	3.3	4.1	15.2[1]	1 576
Sub-total	*16.8*	*7.3*	*4.1*	*33.8*	*5 276*
Total	**104.3**	**111.5**	**107.3**	**328.7**	**27 286**

[1] Including $5.6 million in 2007-2008.

2.2 Envelope for the Action Plan to Combat Poverty and Social Exclusion

In order to respect the commitments of the government under the *Act to combat poverty and social exclusion*, the *2004-2005 Budget Speech* provides for an envelope of $190 million over three years. The required appropriations of $9 million in 2004-2005 will come from the Contingency Fund.

Those amounts are in addition to the measures in the present Budget that will be incorporated into the government's action plan. The Minister of Employment, Social Solidarity and Family Welfare will unveil the details of these measures.

3. ECONOMIC DEVELOPMENT MEASURES

3.1 Regional economic intervention fund (FIER)

Business access to financing is more difficult in the regions, particularly for SMEs that are starting up or are in the initial phases of their development. This is so mainly because private investors attribute a higher level of risk to business projects in the regions.

Besides financing, these businesses also lack management support, the opportunity to share know-how and expertise, and access to a network of contacts. Regional stakeholders also want a government presence to be maintained in the regions, while ensuring that intervention is managed in a more decentralized manner.

Furthermore, the private sector must play a greater role in mobilizing and utilizing capital in Québec. It is therefore necessary to provide more favourable conditions for the provision of private capital in financing businesses.

However, in regard to the regions, a transition period is needed to ensure the presence of private investors. That is why the government will intervene directly, in concert with certain private investors, in order to facilitate access to financing for SMEs in the regions.

☐ A private-public development fund of $300 million, dedicated to SMEs in the regions

To provide for the development of economic projects in the regions, the government is setting up the regional economic intervention fund (FIER), with a capitalization of $300 million.

FIER will take the form of a partnership, thereby allowing the contribution of public and private funds. The government will have a $200-million participation in FIER.

Private participation in FIER will total $100 million: the Fonds de solidarité FTQ will provide $50 million, and Fondaction and Capital régional et coopératif Desjardins will contribute $25 million each.

FIER will invest directly in businesses located in the regions. It will provide a link with current investors and will meet the needs not fulfilled by them. It will invest in the form of equity or quasi-equity in the start-up and development of Québec's wealth-creating and job-creating SMEs.

FIER will also be able to support regional initiatives, with the objective of decentralizing the management of intervention in the regions. Through an investment vehicle dedicated to the economic diversification of a region, FIER will match one investment with an investment by other private investors, thereby increasing leverage as regards regional economies. FIER can then respond to the needs expressed by the regions on the basis of pilot projects, such as those already proposed in the Saguenay–Lac-Saint-Jean and Abitibi-Témiscamingue regions. In the latter case, the government is prepared to examine the Fonds d'investissement le Noroît project and collaborate on it if the conditions for its implementation are met.

The Minister of Economic and Regional Development and Research will have the mandate to initiate the fund and establish its specific features in collaboration with its government partners. The Minister must also ensure that the proposed structure attracts the best managers and the involvement of regional stakeholders so as to ensure decentralized management and expertise in the regions.

The government's participation will be recorded as a government investment and therefore will have no budgetary impact.

3.2 Strategic-support-for-investment program

A program of strategic support for investment will be introduced to encourage the implementation of projects that would otherwise not be possible. The objective is to further stimulate investments, particularly in the regions and by foreign companies, and to increase the productivity of businesses, mainly SMEs.

This program will replace the Private Investment and Job Creation Promotion Fund (the FAIRE program), which will be eliminated as of March 31, 2004. However, financial assistance commitments already authorized under FAIRE will continue to be in effect.

In 2004-2005, the program will have an envelope of budgetary commitments of $75 million. To that end, additional appropriations of $25 million will be earmarked in 2004-2005 for the ministère du Développement économique et régional et de la Recherche.

3.3 Local investment funds (FLIs)

Local investment funds (FLIs) enable businesses in the Québec regions to obtain unsecured loans and loan guarantees for their start-up. FLI contributions, which are generally less than $100 000, attract other partners to invest in business projects. Local development centres (CLDs) are in charge of managing these funds.

Through an interest-free loan granted by the government to CLDs, FLIs were provided with overall capitalization of $130 million. However, the CLDs must begin to repay the loan as of June 1, 2005, whereas their capitalization has been almost completely used and the number of applications for financing is still high.

Given the importance of these funds to regional development, the government is postponing for five years, i.e. until June 1, 2010, the date on which the loan granted to the CLDs must begin to be repaid. This measure will make it possible to reinvest in regional economies for an additional period of five years the amounts related to loans that have matured or loan guarantees that have ended.

In addition, to consolidate the financing available to enterprises in the regions, the ministère du Développement économique et régional et de la Recherche will match FLI intervention with local development and employment investment corporations (SOLIDEs).

4. ENCOURAGE IMMIGRANT FRANCIZATION

For Québec, immigration is more than ever a paramount development lever increasingly linked to the demographic, economic and cultural challenges facing our society. It is our responsibility, however, to create the necessary conditions for the remarkable potential of the thousands of new Quebecers we welcome each year to fully flower. One of these conditions is that new immigrants who do not sufficiently master the French language learn it rapidly and effectively.

This is why, given the increasing volume of immigrants in recent years, and the growth and diversification of the resulting Francization needs, $5 million will be devoted to expanding and improving intervention in this area in order to accelerate access to Francization.

Along with a reconfiguration of services, this investment will promote more rapid and more intensive learning of French and, therefore, the accelerated integration of new immigrants into the labour market. Formulas for full-time and part-time learning will also be diversified, as will partnerships with educational institutions and community organizations. Lastly, methods for distance learning of French that make use of new information technologies will be developed.

To that end, the appropriations of the ministère des Relations avec les citoyens et de l'Immigration will be increased by $5 million in 2004-2005 and for subsequent years. The appropriations required in 2004-2005 will come from the Contingency Fund.

Section 3

Other Measures

1. CREATION OF A QUÉBEC LOCAL INFRASTRUCTURE FINANCING CORPORATION 1

2. CASHING OF GOVERNMENT CHEQUES 2

1. CREATION OF A QUÉBEC LOCAL INFRASTRUCTURE FINANCING CORPORATION

Major investments will be required over the coming years to upgrade municipal infrastructure.

Given the size of investments required to address this problem, it seems more appropriate to develop a long-term strategy than to rely on short-term programs, as was done in the past.

Moreover, the federal government has said it wishes to invest in municipal infrastructure and, in its March 23 budget, reaffirmed its pledge to work with the provinces to share revenues with the municipalities.

The government will therefore be creating a Québec local infrastructure financing corporation for this purpose. The corporation will assist municipal governments in financing their infrastructure projects relating to water systems, wastewater collection and treatment, local roads and public transit.

The federal government is invited to invest in this corporation by contributing the sums it intends to make available to municipalities. The Québec government will do the same.

For example, if the federal and Québec governments were to invest a combined amount of $300 million per year in the corporation, the latter would be able to contribute to nearly $10 billion worth of infrastructure projects over 15 years.

The corporation will be incorporated under a statute passed by the National Assembly. The various terms and conditions regarding the nature and operation of the corporation and the amount of assistance granted to investment projects will be announced at a later date.

2. CASHING OF GOVERNMENT CHEQUES

Currently, a number of financial institutions doing business in Québec refuse to cash Québec government cheques if the payees are not customers of their institution, that is, if they do not have a bank account with one of its branches or a credit card issued by the financial institution.

The Québec government insists that the cheques it issues be cashable, at no charge, at all financial institutions, regardless of whether the payee is a customer of the financial institution.

As of May 1, 2004, any person who receives a cheque for $1 500 or less from the Québec government will be able to cash it, at no charge, at any branch of the eight largest financial institutions doing business in Québec (Caisses Desjardins, National Bank, Royal Bank, Canadian Imperial Bank of Commerce, Scotiabank, Bank of Montreal, Toronto-Dominion Bank and Laurentian Bank). This amount ($1 500) covers almost all cheques issued to employment-assistance recipients.

The government has already agreed with the Canadian Bankers Association and the Fédération des caisses Desjardins du Québec on the procedures for cashing cheques presented by payees who are not customers of the financial institution. The payee will be required to show one official identification document bearing both his signature and photograph or two identification documents bearing his signature.

Where the financial institution complies with these procedures, the Québec government undertakes to reimburse it for eligible cheques that are fraudulently endorsed, up to $1 500.

Moreover, the government prefers the direct deposit system for all payments made to the recipients of its programs. In this regard, a task force composed of representatives of the ministère des Finances and the financial institutions concerned will be set up to study ways of increasing the use of electronic payment. Consultations will be held with government departments and organizations that issue cheques as well as with consumer groups.

Section 4

Financial impact of fiscal and budgetary measures

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES
2004-2005 BUDGET SPEECH
(millions of dollars)

	Financial impact for the government		
	Full year	**2004-2005**	**2005-2006**
REVENUE MEASURES			
1. Reduction of personal income tax			
Child Assistance[1]	-547	-306	-975
Work Premium[2]	-243	-17	-115
Single personal income tax system	-219	–	-40
Sub-total	**-1 009**	**-323**	**-1 130**
Advance payment of the tax credit for child-care expenses	–	-4	-15
Improvement of the socio-economic conditions of artists			
– Income-averaging annuity	-4	-1	-4
– Deduction respecting copyright income extended to performers	-3	-1	-3
Zero-rating under the QST of children's diapers, and bottle-feeding and breast-feeding items	-9	-9	-9
Sub-total	**-1 025**	**-338**	**-1 161**
2. Exemption of the tax on capital for SMEs increased from $600 000 to $1 000 000	**-74**	**-17**	**-74**
3. Improvement of certain fiscal measures			
3.1 Measures for the regions			
– Tax credits for processing activities in the resource regions	-12	-7	-10
– Régime d'investissement coopératif	-11	-1	-7
– Tax credit for on-the-job training	-3	-2	-3
– Tax credit for new graduates working in a remote resource region	-13	-3	-13
– Flow-through share system	-8	-2	-6
– Tax credit for mining resources	-2	-1	-2
Sub-total	**-49**	**-16**	**-41**
3.2 Other measures			
– Tax credit for technology adaptation services	-1	-1	-1
– Tax credit for film and television production	-10	-10	-10
– Relaxation of the ceiling on entertainment expenses	-3	-3	-3
Sub-total	**-14**	**-14**	**-14**
Sub-total	**-63**	**-30**	**-55**

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES
2004-2005 BUDGET SPEECH (CONT.)

(millions of dollars)

	Financial impact for the government		
	Full year	**2004-2005**	**2005-2006**
4. Tightening of tax expenditures			
4.1 Tightening of certain fiscal measures			
– International financial centre	25	6	18
– Tax-assisted funds for the capitalization of SMEs	34	3	30
– Deductibility of investment expenses	28	8	28
– Deduction for securities options	13	–	13
4.2 Elimination of certain fiscal measures			
– Five-year tax holiday for new corporations	75	8	30
– Tax credit for railway businesses	12	4	11
Sub-total	**187**	**29**	**130**
5. Other measures			
Fight against tax evasion	250	150	250
Reducing unfairness in regard to income replacement indemnities	65	32	65
Sub-total	**315**	**182**	**315**
IMPACT OF REVENUE MEASURES	**-660**	**-174**	**-845**
Conversion of certain transfer programs into refundable tax credits[3]	-542	-132	-528
TOTAL IMPACT OF REVENUE MEASURES	**-1 202**	**-306**	**-1 373**

[1] Includes the impact of the elimination, as of 2005, of the tax credit respecting dependent children and the tax reduction for families.

[2] Includes the impact of the elimination, as of January 1, 2005, of the PWA program.

[3] Family Allowance, allowance for handicapped children and PWA program.

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES
2004-2005 BUDGET SPEECH
(millions of dollars)

	Financial impact for the government	
	2004-2005	**2005-2006**
EXPENDITURE MEASURES		
1. Reform of financial support for families and worker assistance		
Family Allowance replaced by Child Assistance	119.0	474.0
Allowance for handicapped children converted into a refundable tax credit	10.0	41.0
PWA program replaced by Work Premium	3.0	13.0
Sub-total	**132.0**	**528.0**
2. Fight against poverty		
Envelope for the Action Plan to Combat Poverty and Social Exclusion	-9.0	-56.0
Investment of $329 million in housing	-7.0	-28.7
Sub-total	**-16.0**	**-84.7**
3. Other measures		
Strategic investment support program	-25.0	-25.0
Immigrant Francization	-5.0	-5.0
Creation of a Québec local infrastructure financing corporation	–	–
Sub-total	**-30.0**	**-30.0**
TOTAL IMPACT OF EXPENDITURE MEASURES[4]	**86.0**	**413.3**
TOTAL IMPACT OF REVENUE MEASURES	**-306.0**	**-1 373.0**
TOTAL IMPACT OF FISCAL AND BUDGETARY MEASURES	**-220.0**	**-959.7**

[4] Included in the program spending objective of $47 151 million in 2004-2005 and $48 377 million in 2005-2006.

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